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Performance Partnership Agreement Between Maine Department of Environmental Protection And EPA New England

Maine Department of Environmental Protection

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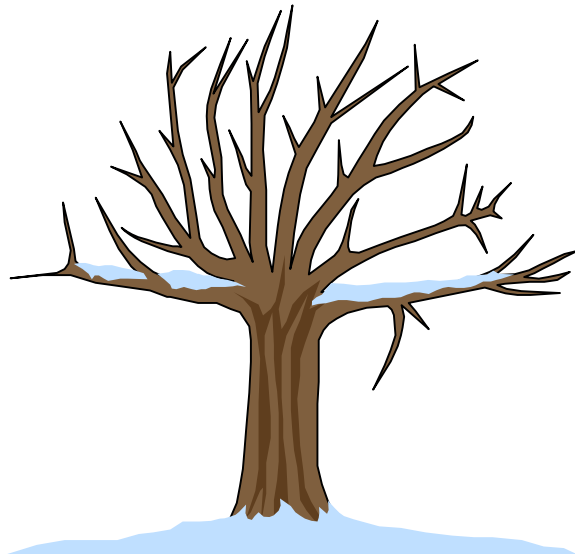
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Environmental Protection / New England
And
Maine Department of Environmental Protection

PERFORMANCE
PARTNERSHIP
AGREEMENT



A Joint Performance Plan for FY00

PERFORMANCE PARTNERSHIP AGREEMENT
Between
Maine Department of Environmental Protection
And
EPA New England

The pages that follow represent our mutual efforts in the National Environmental Performance Partnership system (NEPPS). We formally enter into this FY00 Performance Partnership Agreement, which reflects a shared agenda illustrative of our commitment for continued environmental progress in the State of Maine and expectations for the State/Federal relationship.

By signing this Agreement, the Maine Department of Environmental Protection and EPA New England agrees to utilize the strategies embodied in the NEPPS process. We anticipate that this Agreement will serve as a sound basis for guiding our program performance for FY00. It is also expected that the environmental goals, environmental indicators and agency commitments embodied in this Agreement will be refined over time as this management approach is informed by mutual experiences and stakeholder input.

This Agreement will serve as MeDEP/EPA New England's joint performance plan for FY00.

Maine Department of
Environmental Protection

US Environmental
Protection Agency, New England

Martha G. Kirkpatrick
Commissioner

Mindy S. Lubber
Regional Administrator

Date: _____

Date: _____

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I. GENERAL PURPOSE AND CONTEXT

Introduction

The purpose of this FFY 2000 Performance Partnership Agreement ("the agreement") is to set forth the understandings reached regarding the federal/state relationship, the desirable environmental outcomes and performance expectations surrounding those outcomes, and the oversight arrangements between the two parties. The parties to this agreement are the Maine Department of Environmental Protection (DEP) and Region 1 of the Environmental Protection Agency (EPA), as represented by the Maine Office of Ecosystem Protection.

This agreement is consistent with the National Environmental Performance Partnership System (NEPPS). (October 1995 and December 1995).

For FFY 2000 this agreement covers the programmatic commitments from grants, in whole or in part, as referenced in the specific workplan sections (Part II).

Note: *Quality Assurance/Quality Control. The Department carries out all of its data collection activities with a focus on ensuring the integrity of the data collected. Most of these data collection activities are completed in compliance with Quality Assurance Project Plans. In the interest of continually improving our QA/QC systems, the Department has appointed a Quality Assurance Officer who will oversee the development of a Quality Management Plan during the FFY00/01 period.*

OVERVIEW: Recent Performance, Current Weaknesses, Needed Capacity, Proposed FY00 Plan, and Public Participation

Air Quality

Clean Air Act Section 105 Grant – a very broad grant supporting the State's air quality licensing and monitoring as well as the administration of Maine's base air quality program.

Recent Performance

During FY 99, the Department continued to make progress toward providing clean air to all its citizens. Maine, as a result of its efforts over the last twenty years, has attained and maintained the NAAQS for all criteria pollutants except ozone. Maine has taken major steps to attain the ozone standard pursuant to statutory requirements. The state has adopted and implemented most elements of a 15% Volatile Organic Compound (VOC) reduction plan (15% Plan)¹, nitrogen oxides (NOx) RACT (Reasonably Available Control Technology) requirements in those counties not receiving a section 182(f) NOx waiver, and has submitted an overwhelming transport demonstration. As a result of these measures, Maine sources (large and small) now comply with many new control requirements.

¹ In March of 1999, Maine opted-out of the federal reformulated gasoline program. As a result of this action, the 15% Plan must be revised.

The 1999 Legislature authorized the continuation of the Heavy Duty Diesel (opacity) testing program, and authorized mandatory compliance with the opacity standard starting on January 1, 2000. Failure to comply with the opacity standard could result in fines up to \$500.

Maine implemented the first phase of The Ozone Transport Commission (OTC) low-enhanced I/M requirement, gas cap testing, on January 1, 1999. Maine has submitted its I/M program to EPA for inclusion in the SIP, and is awaiting EPA approval.

Maine has fully supported and will benefit from the efforts of the OTC to develop a regional nitrogen oxide control (NOx) program and a national low emission vehicle (LEV) program. As a result of a number of imaginative ozone planning decisions and very creative interpretations of the Clean Air Act by EPA, Maine was able to develop and receive a completeness determination on its 15% emission reduction requirements without the need to implement the controversial I/M 240 vehicle test program². Maine has continued to participate in the development of regional solutions to transboundary pollution issues by collaborating with the northeastern states and eastern Canadian provinces.

To assure the public that our planning and compliance activities are making progress toward the needed emission reductions (and, ultimately, the attainment and maintenance of good air quality) the Bureau continues its efforts to maintain and enhance its emission inventory, source monitoring, and ambient air quality programs. Renewing our commitment to quality monitoring initiatives, the Department allocated \$150,000, of the past year's grant to replace aged, broken equipment.

Current Program Weaknesses

While significant progress has been made in several areas within the air program, a chronic lack of resources, tight (multiple) Federally imposed deadlines, and competing priorities have frustrated our efforts in other areas, particularly where new programs that directly impact the public are involved.

As a consequence of Federal grant reductions, current revenues are insufficient to defray the expenses associated with the full range of air program activities. Increased funding is necessary to ensure that the Bureau continues to have the resources necessary to execute its mission in terms of permitting/compliance activities, technical/regulatory assistance, and public education/outreach activities.

There is a strong need to improve our ability to rally public, industrial, and legislative support for both air program goals and the programs that are implemented to achieve these goals. It is certain that the programs that must be implemented to achieve attainment of the new ozone, particulate matter and visibility standards will be stressful to many sectors of our economy. As was demonstrated with Maine's first (1994) I/M program, these stresses will not be tolerated unless and until there is a better public understanding of the need for these programs; from such understanding will grow public acceptance and support.

² If EPA reinstates the 1-hour ozone standard, Maine will be required to update its pending 15% Plan.

Increasing public and legislative interest in bioaccumulative compounds in the environment (such as mercury and dioxin) have revealed the inadequacy of a traditional regulatory approach in dealing with these issues. No aspect of the statutes or regulations governing the Air program is equipped to deal with the implications of long-term chronic exposure to these compounds.

The emission inventory and compliance/permitting programs have not yet taken full advantage of state-of-the-art electronic data reporting and transfer systems. The Department will continue work with industry to explore opportunities to take advantage of data transfer technologies.

Areas of Needed Capacity-Building

The Department, working in conjunction with the other New England and mid-Atlantic states, will participate in regional planning efforts to support the development of ozone, particulate matter and visibility SIP revisions. Maine must continue to develop the modeling infrastructure and planning capability that will be necessary to implement these programs of regional importance. Continued federal technical assistance and funding will also be crucial to ensure this effort's success.

Mobile source emissions contribute a significant portion of Maine's air pollution. Although mobile source emission reduction strategies primarily focus on cleaner cars and cleaner fuels, the promotion and use of alternatively fueled vehicles is part of the package. Propane, compressed natural gas, or electric power may fuel these vehicles. The infrastructure to support this and similar programs needs to be developed in the short term.

The implementation of the new fine particulate ambient standard (PM_{2.5}) will require a significant additional expenditure of scarce program resources. Absent additional federal funding supporting the capital purchases of monitoring equipment necessary to implement the program, it will likely become necessary to suspend or terminate existing monitoring activities.

The Department has been unable to adequately address issues related to electric utility restructuring. During the coming fiscal year, Mainers will for the first time have a choice in purchasing electricity, which will have concrete implications for Maine's air quality. The Department plans to further explore the possible environmental impacts of utility restructuring and to work with the Maine Public Utilities Commission to minimize resulting environmental degradation and to promote environmentally sound power choices for Maine.

Proposed FY00 Action Plan

In addition to the tasks noted above, there are several new initiatives needed for FY00. They include the incorporation of EPA's Maximum Achievable Control Technology (MACT) standards into Maine's Air Toxics Program and the development of regulations to implement the OTC NOx Memorandum of Understanding.

Public Participation

The Department also must improve its system for obtaining meaningful and diverse input from the public to develop programs that improve air quality, while meeting the needs of its many customers. We plan to improve our stakeholder process for program review by building on our existing Regional Ozone Committee stakeholder group, and possibly expanding its membership and function. The Committee will review the PPA at its October meeting.

Land and Water Quality

Water Quality Management Grant (106) -- a very broad grant, funding the base program of water quality monitoring and licensing for surface and ground water.

Water Quality competitive grants (104 b 3) -- these grants are competitively awarded and fund wetlands protection, abatement grants for combined sewer overflows, and critical areas protection (with the State Planning Office (SPO)).

Non-Point Source Program (NPS) (319) – Section 319 of the Clean Water Act for NPS implementation projects. Eligible activities include: installation and demonstration of best management practices; technical assistance; enforcement; and education and training programs. Emphasis is placed on implementation projects in priority areas. Fifty percent of the funding is passed through to local Soil and Water Conservation Districts for their projects.

Underground Injection Control (UIC) -- a specific grant for identifying, classifying, regulating, and closing injections of any polluted waters underground. Funding supports the activities of the UIC Coordinator.

Recent Performance

The Legislature adopted a comprehensive mercury initiative requiring the Department to develop interim, facility specific mercury limits for wastewater treatment plants and model pollution prevention plans. Additionally, the legislation requires the Department to develop recommendations for a new ambient water quality standard for mercury by January 2001. The Legislature allocated funds for the continued operation of the JETCC (Joint Environmental Training Coordinating Committee) wastewater training programs, and approved a 7 million-dollar bond for wastewater pollution abatement.

In 1999, the DEP completed a review of Maine's water classification program and the Legislature adopted changes in classification for 52 waterbodies. With two exceptions these were all upgrades in classification as a result of waste discharge elimination, improved waste treatment, dam removals or increased monitoring activity that revealed attainment of higher standards. Two downgrades in classification were also included: the Salmon Falls River as a result of a Use Attainability Assessment that was conducted for that water body, and the St. George River as a result of an error in classification made in 1990.

Fishery resources on the Kennebec River should improve significantly with the recent removal of the Edwards Dam in Augusta. Ongoing discussions are being held with stakeholder groups regarding the possible removal of the Smelt Hill Dam on the Presumpscot, which would improve migratory fish habitat and water quality. In addition, on the dioxin front, results show all seven bleach kraft mills to be in compliance with the statutory requirement of no detectable levels of 2,3,7,8-TCDD at the bleach plant, and recent data show continuing downward trends in levels of dioxin in fish tissue.

From 1990 to 1998, the seven bleach kraft mills reduced their total pounds of BOD (biological oxygen demand) released annually by 49%, and total pounds of total suspended solids (TSS) by 47%. Maine's municipal wastewater treatment facilities continue to show a downward trend in total pounds of BOD discharged to Maine's rivers and streams. In comparing the discharge monitoring data from 100 municipal treatment facilities during the period 1994-1998, total pounds of BOD decreased from approximately 5.6 million pounds to 4.9 million pounds. Likewise, during the same time period, TSS decreased from 5.5 million pounds to 4.9 million pounds.

Regarding nonpoint source pollution (NPS) abatement, the DEP continued to administer 319 grant funding, including an additional \$1.2 million made available as part of the Clean Water Action Plan. Funding has been directed to restoration projects in priority watersheds. The DEP also submitted to EPA its plan for administering an enhanced Nonpoint Source Management Program (addressing the "Nine Key Elements" of an enhanced NPS program) with 15-year goals and 5-year objectives identified. These goals and objectives were developed in close consultation with the Departments of Conservation (DOC), Agriculture, Food and Rural Resources (DAFRR), and Human Services (DHS), and with the State Planning Office (SPO). EPA approved Maine's NPS Program Upgrade on October 13, 1999.

The Department has re-established a lakes program. With the passage of lakes protection legislation in 1998, new positions were added, both within DEP and in two Soil & Water Conservation Districts (SWCD's). With these positions, the Department has stepped up compliance inspections and Shoreland Zoning assistance in "most at risk" lake watersheds; has done total maximum daily load (TMDL) work in non-attainment lakes; and has developed a lakes education program that includes a non-phosphorus fertilizer campaign. At the same time, the SWCD's have increased the level of technical assistance available to local watershed groups.

The DEP continues to administer the State Revolving Loan Program (SRF) jointly with the Maine Municipal Bond Bank (MMBB) to fund new municipal treatment facilities and upgrade existing facilities. The DEP is attempting to expand the uses of SRF re-payment funds. These funds would be used to construct non-point source pollution control facilities for manure waste and milk room waste and would be administered through the Finance Authority of Maine. Another use of the funds would be to construct sewer extensions for municipalities to reduce urban sprawl. The urban sprawl projects would be designated by SPO.

The DEP also continued to administer the Erosion and Sediment Control Law (ESCL) and the Stormwater Management Law (SWML). The ESCL is a non-reporting, performance standard regulatory program. The DEP is placing heavy emphasis on education and outreach to achieve compliance with this law. Enforcement action may be taken against anyone causing significant erosion to a protected natural resource (defined under the Natural Resources Protection Act). Under the SWML, the DEP has reviewed 141 projects since the law became effective in 1997 (not including projects reviewed for stormwater under the Site Location Law). Under the program, water quality standards exist for developments in watersheds of lakes and coastal waters that are "most at risk due to development." The DEP is collecting data on "most at risk streams" and plans to begin rule making on these in 2000.

Training is being coordinated through the NPS Training Center. Since January 1997, we have trained 1127 participants on the Erosion Control Law and/or Erosion Control Best Management Practices. These include contractors, code enforcement officer (CEOs), non-engineering land use professionals, etc. Since that time, 619 individuals have also received training regarding the Stormwater law and Stormwater Best Management Practices.

Also in regards to NPS pollution, DEP has submitted recommendations to the Legislature for measures to increase the use of buffer strips and to facilitate the upgrade of substandard wastewater disposal systems. The Legislature will consider these recommendations during the second session of the 119th legislature (Winter-Spring 2000).

Status of FY99 PPA

The Land & Water Program completed most activities in last year's PPA. Those activities not completed include activities that are normally on-going from year-to-year, activities that may take many years to complete, and activities that were delayed and for which revised or new target dates have been assigned. Some activities that take more than a year did not previously have target dates assigned and these have been added. One activity was dropped due to a legislative change.

(1) Items that are normally on-going from year-to year include:

- Reopen/renew applicable licenses to include limits for pollutants with exceedences.
- Using total quality principles, identify opportunities for improving waste discharge program services, including restructuring as necessary. Work with stakeholders to identify improvements.
- Continue to monitor compliance with the State's dioxin law.
- Inspect 50% of all Tier I, and Tier II licenses not requiring compensation, and 100% of all Tier II and III licenses requiring compensation.
- Inspect 100% of all new Site Location permits.
- Complete projects related to opening redeemable shellfish areas in specific towns. Six are done, eight are ongoing, two are no longer a priority, and one has been substituted.

(2) Items expected to take several years to complete:

- Develop enforceable schedules for combined sewer overflow (CSO) Master Plans through waste discharge licenses and/or nonpenalty consent agreements.
- Work with other agencies to assist stakeholders to develop regional beach management plans; participate in development of specific beach management plans.
- Test vulnerability assessment in Presumpscot, Fore and Royal River watersheds. Assess nonpoint source pollution risk. Assess and compare data availability in high and low population areas.
- Work with stakeholders to develop regional beach management plans, and participate in development of specific beach management plans.
- Work with the State Planning Office and the Municipal Advisory Group to identify municipalities with capacity to undertake local reviews, and provide municipalities with technical assistance to further build capacity.
- Assess and prioritize wetlands and riparian lands for protection.

(3) Revised with target dates.

- By December 1999, issue final licenses for all state fish hatcheries with expired permits. There have been delays due to the complexity of the bioaccumulative persistent toxins (BPT) issue and concerns raised by the private hatcheries over monitoring requirements.
- Revise the Site Location regulations by 6/1/2000. Rulemaking has been delayed due to other priorities.
- Upon completion of Casco Bay Watershed Wetlands Project by 12/31/99, assess mitigation priorities by June 2000, and analyze feasibility of establishing a program to target compensation to highest priority areas. If feasible, develop draft rules for program by 12/31/2000.
- Submit the 1998 305(b) report to EPA, including updated monitoring data gathered in 1997, by March 2000.

(4) Items for which target dates were not previously assigned.

- Work with the Waldoboro Utility District and Rural Development to remove treatment plant outfall to Medomak and replace with new land application system. Start construction 5/2000 and finish construction 11/2001.
- Develop a strategy for adopting stormwater management measures at new and expanded marinas by 12/31/2000.
- Upon completion of Casco Bay Watershed Wetlands Pilot Project by 12/31/99, assess mitigation priorities by June 2000, and analyze feasibility of establishing a program to target compensation to highest priority places. If feasible, develop draft rules for program by 12/31/2000.
- Assist in compiling data for the final Natural Resources Mapping Project final report and make the report and data available electronically for future use in managing resources by 12/31/2000.
- Initiate voluntary protection project through grant(s) to local resource management organizations. (Not done; propose dropping plans to do this due to proposed reconfiguration of the Natural Resources Mapping Project.)
- Support interagency efforts to better define appropriate water levels necessary to support Atlantic salmon in the Pleasant, Narraguagus and Mopang Rivers by summer 2000.

(5) Incomplete (EPA)

- EPA intends to reissue all seven paper mill NPDES permits to implement the Cluster Rule, working in coordination with the Land and Water and Air Bureaus.

(6) Dropped

- Implement a Compliance Policy for facilities whose effluent levels of mercury exceed background concentrations. (Not needed due to new legislation.)

Current Program Weaknesses

In the 1999 Legislative session, the DEP was unsuccessful in gaining legislative support for a \$500,000 bond for stormwater mitigation through improvements to local roads. Local and private roads have been identified as the largest contributors of nonpoint source pollution in priority lake watersheds. The DEP lacks sufficient resources to effectively address these sources.

There continues to be a sense of ambiguity in the public and the Legislature regarding the appropriate roles for DEP and municipalities in site plan reviews.

Areas of Needed Capacity-Building

An ongoing emphasis for the Land and Water Bureau is to improve the operation of the waste discharge licensing program. An effort is underway internally and externally to evaluate the deficiencies in the current program and identify improvements in operation (including organizational changes if needed). Revenues from the new wastewater fee system will enable the water program to hire additional licensing staff authorized by the 1998 NPDES (National Pollutant Discharge Elimination System) Delegation legislation. This will allow reduction in the current backlog of expired permits, with a goal of issuing 50% of the expired major municipal licenses and all the expired major commercial/industrial licenses by the end of FFY 2000.

Addressing effluent toxics continues to be a high priority. Evaluation of effluent data has revealed that metals in POTW (publicly operated treatment works) effluent are a persistent problem, and one that is occurring nationwide. DEP will continue efforts to educate POTWs and staff on identification of toxics problems and application of cost-effective, workable solutions including source reduction, pollution prevention, and operational improvements. DEP will also continue its emphasis on ensuring high quality laboratory data, and ensuring that toxics limits are incorporated into permits in a timely manner.

There are gaps in state laws regarding the appropriate regulation of concentrated animal feeding operations. (Because of its size or location, an operation may not require review under the Site Location of Development Law in organized areas of the State. Because of the agricultural exemption in Land Use Regulation Law, an operation may not require a permit from the Land Use Regulation Commission in unorganized or deorganized areas.) Therefore, a moratorium on new swine feeding operations including 500 or more swine continues in place through October 1, 2001. The Department of Agriculture, Food and Rural Resources (DAFRR) and the DEP are required, under recent legislation, to enter into a memorandum of agreement (MOA). The MOA must establish a process to ensure a coordinated review of animal feeding operations pursuant to applicable environmental and land use laws, including administration of the NPDES permit program as it applies to animal feeding operations. Together with EPA, DEP and DAFRR will work to develop a general permit.

Persistent, bioaccumulative toxics (PBTs) are a significant problem for surface waters. A significant portion of the problem appears to be airborne, which is largely outside the framework of existing regulatory programs -- both water and air -- to address. DEP needs to continue to press forward with efforts to improve the level of knowledge of the sources of these contaminants, and their relative risks and exposure pathways, as well as to develop effective strategies to address the risks. (See Section A.4 Cumulative Impacts)

Proposed FFY 2000 Action Plan.

By November 1999, DEP will submit a formal request to EPA for delegation of the NPDES program with an expectation that EPA will issue its decision by 1/31/00 -- or within 90 days of receipt.

DEP will continue to implement the Lakes Protection Program. Implementation includes improving enforcement of land use laws, increasing education and outreach on lakes issues, and furthering scientific understanding of lakes' functions.

For rivers and streams, DEP will focus on improving the dioxin monitoring program, and on monitoring pulp and paper mill compliance with the state dioxin law and Federal Cluster Rule requirements. Provisions of the new mercury legislation will be implemented to develop model pollution prevention plans and establish facility specific interim effluent limits. DEP will continue to target nonpoint source efforts pursuant to the Unified Watershed Assessment and the state's watershed prioritization system and will work with EPA to implement proposed enhancements to the Nonpoint Source (NPS) Program as identified in the DEP's Nine Key Elements report. DEP will follow the schedule in the 303(d) list for developing and implementing TMDLs.

DEP will bring greater focus to education and outreach through the initiation of a Nonpoint Education for Municipal Officials (NEMO) program in the Casco Bay watershed, and will initiate a Stream Teams Program to provide grass roots organizations with better tools to protect or restore their streams.

In 2000, the DEP will be monitoring southern Maine river basins according to the second year of the second five-year cycle for the Surface Water Ambient Toxics Monitoring Program (SWAT).

Fulfilling the requirements of the Atlantic Salmon Plan continues to be a priority. The DEP has a Memorandum of Understanding with the State Planning Office, which lays out DEP's responsibilities to complete certain actions under the Plan. Along the same lines, the need for appropriate management of water withdrawals is becoming an increasing problem as more and more operations are looking to use irrigation. DEP will work with the other state agencies to develop a sound, effective program for managing water withdrawals consistently, and in a manner that is both protective of the resource and helps people to get the water they need.

Public Participation

The Bureau of Land and Water Quality seeks advice and feedback from interested persons throughout the year on many aspects of its programs. Vehicles range from formal stakeholder groups, to advisory committees, partnerships, and requests for comments from the general public on the Web. Bureau staff met on September 16, 1999, with the Maine Watershed Management Committee to obtain feedback on the draft Performance Partnership Agreement. This Committee includes representatives from Maine's resource agencies (Departments of Marine Resources, Inland Fisheries and Wildlife, Human Services/Health Engineering, Conservation, and Agriculture, Food and Rural Resources); the Maine Chamber of Commerce and Business Alliance; Natural Resources Council of Maine; Maine Pulp and Paper Association; and the Maine Waste Water Control Association as well as others.

Programs dealing with resource monitoring and assessment benefit from public participation through a number of vehicles. The Lake Program Review Committee includes other agencies, outside organizations such as the Congress of Lakes Association (COLA) and Soil and Water Conservation Districts (SWCDs), as well as other DEP bureaus. The Surface Water Toxics Advisory (SWAT) Committee includes agencies, businesses, environmental groups, and academics. Interests involved with the Salmon Conservation Plan include the Atlantic Salmon Commission, agencies, and seven watershed councils. In the area of aquatic biodiversity, staff partner with the Department of Inland Fisheries and Wildlife (IF&W) and the Nature Conservancy. A steering committee includes agencies, environmental groups and academics.

The Wastewater Discharge Licensing Program actively seeks formal and informal participation in program content and direction. Stakeholder group participation has been important on significant issues such as mercury, toxicity protocols and NPDES delegation. Groups often involved include the Maine Waste Water Control Association, Natural Resources Council of Maine, Maine Rural Water Association, Penobscot Indian Nation, and Maine Chamber of Commerce and Industry.

Programs offering technical and financial assistance in the areas of wastewater treatment plant construction and operation benefit from the involvement of the Maine Waste Water Control Association (MWWCA). Bureau staff are currently partnering on agricultural nonpoint source issues with the Maine Department of Agriculture, Food and Rural Resources (DAFRR), Soil and Water Conservation Districts, and the Maine Farm Bureau. Staff are also working with the State Planning Office (SPO) on issues involving wastewater infrastructure in urban areas. There is a regular exchange of information with private engineering firms and with the 141 towns that have wastewater treatment facilities.

Materials Handling

Resource Conservation and Recovery Act (RCRA) -- the hazardous waste component of this grant covers hazardous waste licensing and compliance activities and supports staff in each of these areas.

Underground Storage Tanks (UST) -- a component of the RCRA grant that covers the registration, removal and remediation activities associated with underground storage tanks.

Lead and Asbestos -- these two grants are administered similarly and cover the certification of professionals in the asbestos and lead abatement fields. Inspections, following notification of removal and abatement activities, are also funded by these grants.

PCB -- this small, separate grant covers the inspection of PCB storage sites and response to potential or actual PCB contamination.

Recent Performance

Performance regarding contaminated sites has involved several programs. The number of closed solid waste landfills has increased to 348, with 17 closed during the year. Fifty-four Voluntary Response Action Program (VRAP) applications were received, with 46 sites resolved in the year. Fourteen uncontrolled sites were resolved. The number of long-term oil remediation sites increased by 62, or 18%, from 342 to 404, while the number of long-term oil remediation sites completed increased by 101, or 46%, from 220 to 321. The number of RCRA-C corrective action sites decreased by 2, or 1%, from 42 to 40. Fourteen hazardous waste closures and 56 corrective actions were processed. Emergency response actions conducted totaled 2,422. One hundred-forty residential wells were reported to be impacted by petroleum products, and 13 wells were reported to be impacted by hazardous waste. Two alternate public water supplies were developed to replace contaminated systems. (See Objective C-1)

Progress has also been made regarding tire stock piles. Six and one half million tires have been removed from various sites and have been beneficially reused (this has been accomplished through use of \$8,000,000 in voter-approved bond funds). Two of the major sites and one of the smaller sites have been entirely cleaned up and site remediation has been completed. Work has commenced at a third major site and plans have been made for cleanup work at the two remaining major sites. A contract for cleanup work at five of the smaller stockpile sites was recently initiated. Staff conduct regular compliance checks at remaining stockpile sites and have developed and maintain an active database which includes tire stockpile inventories. (See Objective C-2)

During the year a variety of activities occurred to support objective C-3 (Waste and Petroleum Management). Those activities include: issuing nine hazardous waste licenses and 110 solid waste licenses; completing an extensive update of all solid waste rules; implementing a pilot project to replace above ground home heating oil tanks; overseeing the removal of 510 underground oil storage tanks, of which 392 were bare steel tanks; funding the replacement of 850 substandard aboveground home heating oil storage tanks (ASTs) and associated piping; receiving 632 hazardous waste annual reports; undertaking 728 compliance inspections of solid waste facilities; conducting 120 compliance inspections of petroleum storage facilities; conducting 74 compliance inspections,

including 61 hazardous waste inspections; issuing six solid waste enforcement orders; investigating 101 complaints concerning underground oil storage facilities and/or oil discharges; issuing 120 hazardous waste transporter licenses; processing 13,072 hazardous waste manifests; investigating 45 hazardous waste complaints; delivering 55 solid waste presentations/programs and attending 157 licensing/compliance related meetings; conducting three seminars for gasoline station operators; notifying 2000 gasoline facility owners/operators of the requirement for an annual facility inspection; conducting three biomedical waste seminars; developing numerous issue profiles relative to hazardous waste (mercury, batteries, etc.); and conducting more than 70 hazardous waste outreach activities. (See Objective C-3)

During the term of the last Agreement, the Asbestos & Lead Licensing & Enforcement Programs performed core program activities and some special initiatives to achieve this objective (C-4). For federal fiscal year 1998 the core activities included: issuing 1500 individual certifications and 175 licenses; receiving 2200 notifications of abatement jobs; conducting 185 compliance inspections and documenting any violations observed as part these inspections; pursuing enforcement actions as needed to ensure on-going compliance; accrediting of approximately 20 training providers; providing on-site compliance inspections and technical assistance to 50 LEAs; investigating all credible tips and complaints received; presenting at 75 educational forums; and providing other technical assistance at 112 sites and through 4100 phone calls (most numbers are approximate). The Department continued active participation in the regional New England Lead Coordinating Committee (NELCC), Lead Consortium of Northeast States and Tribes (CONEST), and Asbestos Consortium of Northeast States (CONES) working groups to ensure consistency and coordination of licensing, certification, education and outreach efforts in the northeast. Special initiatives included: gaining EPA authorization for the Lead Licensing and Enforcement regulatory program pursuant to TSCA 402/404; establishing of a Quality Assurance program for lead inspections; training Childcare Licensing inspectors to screen for potential lead hazards in day care facilities; targeting the five largest cities in Maine to ensure notification to DEP on all demolitions; and presentations to school superintendents and municipal code enforcement officers on how to comply with asbestos regulations. (See Objective C-4)

In several areas of waste reduction (Objective C-5) during the term of the last Agreement, staff provided oversight in the contracted audits of 42 gasoline stations participating in the Environmental Leader Program, participated in on-site audits at five wood products facilities, provided input into a subsequent wood products environmental guide book, and participated in the second year STAR TRACK audits. Staff has also actively participated in preparing the final report for the CLEAN P2 Program.

Work on the Lower Kennebec P2 Project, to be initiated in the Office of Innovation and Assistance, has not yet begun due to staffing limitations. The project is being re-evaluated and a revised methodology will be developed in the next term.

In coordination with the Office of Innovation and Assistance, the Bureau continues to provide, as needed, technical assistance for a variety of industries such as printing and metal finishing, and public facilities and trade organizations. (See Objective C-5)

Regarding pollution prevention, by 01/01/99, Maine industry achieved a 22% reduction in use of extremely Hazardous Substances, 38% reduction in Hazardous Waste, and a 53% reduction in Toxic Release Inventory (TRI) releases. To build on this performance, a new law was passed in 1999 extending the Toxic Use Reduction (TUR) program through 2006. It focuses on voluntary goal setting, prioritizing pollutants and increased public access to information. (See Objective D-3)

Finally, the Department has joined with the Department of Administrative and Financial Services in an effort to bring all state owned facilities into compliance with state and federal environmental laws. A steering committee has been formed. By the fall of 2001 it is anticipated that all state agencies and governmental branches will have trained people who will function as a cadre to conduct cross-agency facility audits of current compliance and management systems. A mechanism to provide stable funding, for various aspects of the initiative and for any corrective actions required, must be investigated and secured. It is anticipated that funding on both an agency and statewide level will be necessary. (See Objective D-4)

Current Program Weaknesses

Bond authorizations continue to be insufficient to complete closure of unlicensed landfills and to make significant progress in tire stockpile cleanup. In the course of the next Agreement period, the Department will work in concert with other state agencies to explore other means of funding and effecting tire stockpile cleanup in a more expeditious manner.

Areas of Needed Capacity-Building

Stronger regulation of above ground oil storage tanks is needed to prevent leaks and minimize contamination of ground water. A pilot program to replace substandard residential above ground oil storage tanks is in place and will result in analysis and recommendations to be reported to the legislature in January of 2000. We will continue to work with various interest groups to achieve this.

Higher value bond authorizations or alternative funding mechanisms will allow us to make greater gains in site cleanups and tire stockpile cleanups more rapidly.

A more unified cross-agency approach to address ground water information (in terms of data receipt, input, and analysis) needs further development. Expanded use of the internet and an exchange of information should yield greater gains for the agency and the public in general.

In terms of data needs, the Bureau examines its databases on a regular basis to ensure that data generated is accurate and provides a true measure of record - be it for tracking environmental gains through, for example, the cleanup of contaminated wells, or for record keeping and data generation or financial management (i.e. petroleum product received at terminals - on which fees are paid into the Ground Water Oil Cleanup Fund and, at times, the Surface Oil Cleanup Fund). Modifications and adjustments are made to our databases as needed and as resources allow. The proposal of a "center of excellence" for professional certifications (hazardous and non-hazardous transporters, wastewater treatment plant operators, etc.) is an example of an effort which will require coordination with the Department of Professional and Financial Regulation to create systems which will complement our distinct functions.

Proposed FY00 Action Plan.

A partial list includes:

- Continue cleanup of sites contaminated by petroleum from leaking underground and above ground tanks;
- Continuation of the above ground home heating oil tank replacement project;
- Continue removal of scrap tires;
- Continue cleanup of uncontrolled, federally owned, and Superfund sites;
- Increase risk-based decision making in cleanup cases in conjunction with the Department of Human Services Bureau of Health;
- Manage the Bureau funds to maximize effectiveness;
- Promote early identification of public drinking water supplies at risk or contaminated at low concentrations;
- Educate licensed Realtors on identification of petroleum and hazardous substance contamination;
- Provide guidance to solid waste landfill owners and designers on regulatory changes and technical developments on proper landfill cover system designs;
- Develop (in conjunction with the Board of Underground Storage Tank Installers and the Maine Oil Dealers Association) continuing education training for underground tank installers;
- Provide training and guidance to underground oil storage tank owners and operators regarding facility maintenance and compliance
- Develop a long range plan for the various cleanup programs;
- Implement electronic submission of all required ground water data;
- Coordinate with and provide input into intra-agency pollution prevention initiatives and projects;
- Continue to promote the marketing and redevelopment of "brownfield" sites, including creation of a catalog of brownfield sites to be marketed to businesses;
- Implement a compliance strategy to increase compliance with the removal deadline at residential locations that have non-conforming underground oil storage facilities;
- Provide increased technical and regulatory assistance to the state, to municipalities, and to school administrative districts that own non-conforming underground oil storage tanks;
- Continue to provide balanced programs for the proper design, operation, and management of oil and hazardous wastes by using educational, technical, and regulatory assistance; compliance and enforcement; policy development and implementation; rule and statutory initiatives; and licensing and pollution prevention strategies.

Public Participation

To meet the public participation requirement of the Agreement, the Bureau of Remediation proposes to conduct a PPA program forum during the month of October. An announcement will be sent to a variety of groups and individuals with interest in our assorted programs. A presentation of each program, as well as an opportunity for questions and answers, is planned.

HIGHLIGHTED ISSUES: SPRAWL

A number of existing and proposed initiatives will address the issue of sprawl from the Department's perspective, although overall responsibility for the state lead role has been assigned by the Governor to the State Planning Office (SPO). The initiatives referenced below are discussed in greater detail throughout the Workplan section of this document. They appear here in summary form by program. In addition, Department management is actively participating in an interdepartmental "smart growth" initiative.

Air Quality

Thus far, the Department has as yet been unable to devote resources to the issue of urban sprawl as a discrete air quality issue. However, because sprawl is a major contributor to Maine's mobile source air pollution problem, we recognize that substantial gains in air quality will not likely be made until sprawl is checked. Consequently, the efforts associated with the State's Mobile Source Program (See Objective A-1-004) and those dealing with non-criteria pollutants (See Objective A-3-010) will be addressing the issue of sprawl, albeit indirectly.

In addition, the Department plans to utilize its existing monitoring and outreach efforts to address the problem in a manner that focuses the public's attention on the connections between air quality and patterns of development. We will also work with the Maine State Planning Office, the Department of Transportation, and other appropriate organizations to explore ways to aid transportation planning and to minimize sprawl.

Land and Water Quality

In terms of land and water the Department will be participating in several efforts to help better define the problem and potential solutions to it (see B-6-030). A number of these will be conducted in conjunction with bureau initiatives on nonpoint source pollution (see B-1-1015, B-2-018) and center on education and technical assistance in the area of land use planning. The bureau will also address sprawl as it pursues the groundwater initiative (which includes wellhead protection -- see B-5-025) and its ecosystem planning efforts (see B-6-027). Finally, since there are relevant considerations under the state's Site Location of Development Law, there will be opportunities to address the issue of sprawl in the context of building municipal capacity to conduct appropriate reviews (see B-6-027). Examples of sprawl initiatives include partnering with other agencies to adapt the NEMO (Nonpoint Education for Municipal Officials) educational method in the Casco Bay watershed (\$75,000); brownfield site assessment (\$58,713) and education/outreach on volunteer cleanup grants (\$86,000). DEP will be developing, in cooperation with SPO and the Maine Municipal Bond Bank (MMBB), a loan program to make improvements to sewer infrastructure that encourages efficient urban growth and discourages development sprawl.

Materials Handling

Our federally funded Voluntary Cleanup Program (see C-1-032), the Voluntary Response Action Plan, (VRAP) focuses on the environmental impacts of the clean up of contaminated properties, including, in part, their reuse to minimize the increase in sprawl. Additionally, the agency is represented on the Downtown Maine Initiative, which actively works to:

- promote redevelopment of downtown areas as vibrant sources of economic and social activity;
- preserve and rehabilitate existing housing, and to encourage diversity in housing options;
- create long term savings in transportation and infrastructure costs; and
- promote growth concentration which furthers the goals of the Growth Management Act, the Clean Air Act, and other environmental initiatives.

II. PERFORMANCE PARTNERSHIP WORKPLAN

A. CLEAN AIR

GOAL: To ensure and enhance the continued health, safety and general welfare of all citizens of the State, so that everyone can breathe clean air every day of the year, in every part of the State. To protect plant and animal life as well as property from air contaminants created by human activities, and to render our air, land and waterways free from harmful levels of air contaminants.

A-1: Measurable Objective: Ground-level Ozone

By 2001³, ground-level ozone and its precursors, nitrogen oxides and volatile organic compounds, will be reduced to levels needed to meet and maintain the federal outdoor air quality standard of 0.12 parts per million within the entire State of Maine.

♦**Outcome Measures:** (a) outdoor (ambient) ozone and ozone precursor monitoring; (b) modeling results; (c) emissions inventory (tons of pollutants/year); (d) number of exceedances/year (see below)

A-1-001 Non-regulatory programs. Expand and implement a public education, pollution prevention and innovative-technology assistance program that targets ground-level ozone and the control of its precursors, nitrogen oxides and volatile organic compounds, to meet or maintain the state/federal outdoor air quality standards within the entire State of Maine.

Actions:

Outreach activities. Increase public awareness and stewardship regarding air quality issues through outreach activities targeted at the general public, school children, the regulated community, the media, and the legislature.

- Collaborate with other organizations (e.g., the OTC, EPA, NESCAUM, Maine Energy Education Project, Earthminders, the Natural Resources Council of Maine, and Maine's health care professionals) to educate the Department's customers regarding health and environmental effects of pollutants and to promote voluntary emission reductions.
- Optimize pollutant reduction through pollution prevention targeted at industry and encourage stationary sources to adopt environmental management systems that improve compliance and enhance pollution reductions.
- Work with other DEP bureaus and the Office of the Commissioner to fund and implement Department education initiatives, including an informational statewide newspaper column, public service announcements, displays at fairs, workshops, and web page development.
- Promote awareness of and reduction in mobile source pollution through southern Maine's automobile inspection and maintenance program, a green car labeling program and outreach to car dealers and the public on low emission vehicles (LEVs), eco-tourism and Clean Cities/Green Corridors, E-Vermont, Junior Solar Sprint and Electrathon, development of a mobile sources website, outreach on safe gasoline handling, and other programs.

³EPA acceptance of the 2001 attainment date is conditioned on EPA approval of overwhelming transport demonstration.

- Notify the public via the news media, the Department website, and the Ozone Hotline when forecasted levels of ground-level ozone exceed an average of 80 parts per billion over an eight-hour period.
- Participate in and promote the Ozone Mapping Project.
- Track issues related to energy use and electric utility restructuring in cooperation with other groups (e.g. Maine Chamber and Business Alliance's Energy and Environment Center, the Energy Advisory Council, the Maine Public Utilities Commission, NESCAUM, the Natural Resources Council of Maine, and the Northeast Energy Efficiency Partnership) and work with such organizations to try to minimize the impacts of restructuring and to promote environmentally sound power choices for Maine.
- Use existing monitoring and outreach efforts to begin addressing the problem of urban sprawl, and work with the Maine State Planning Office, the Department of Transportation, and other appropriate organizations in exploring ways to aid transportation planning and to minimize sprawl.
- Enhance the system for obtaining meaningful and diverse input from the public by improving the stakeholder process for program review, building on the existing Regional Ozone Committee stakeholder group and possibly expanding its membership and function.

Program re-evaluation.

- Identify strategies outside of the traditional regulatory framework that will obtain co-benefits by targeting reductions in multiple pollutants and/or reductions within more than one medium (e.g. air, water, land).
- Implement a staff time-tracking system to be used as a tool in possible reallocation of resources.

A-1-002 Monitoring and database development. Continue to monitor outdoor air for ground-level ozone and its precursors, nitrogen oxides and volatile organic compounds, through a statewide network of air quality monitors, and continue to maintain the database on the nitrogen oxides and volatile organic compounds that are released from new and existing area, point and mobile sources.

Actions:

Monitoring network. Maintain an effective ozone and ozone precursors monitoring network. To the extent that EPA/State of Maine provides funding, purchase replacement monitoring equipment and update the equipment inventory/assessment as part of the five-year monitor replacement program.

- Operate and maintain an approved PAMS air monitoring program that includes sufficient training for staff: submit air quality, meteorological and quality assurance data to AIRS.
- Update and implement PAMS data analysis plan and PAMS QA plan as per approved schedule.
- Provide ozone data from the statewide monitoring network for use in the Ozone Mapping Project.

Databases and data management. Work with EPA to establish State/EPA agreements concerning data management systems. Determine baseline from databases.

- Continue reporting of PAMS and SLAMS air quality, meteorological and quality assurance data to AIRS.

- Complete the transition from AIRS to the EPA's new National Emission Trends (NET) database, so that transfer to Maine's emissions data to EPA in electronic format can continue.
- Analyze data and document violations.
- Continue the periodic and annual emission inventories of ozone precursors and begin development of PM_{2.5} emission estimates in accordance with guidance and training provided by EPA.
- Finalize and submit to EPA the 1996 periodic emission inventory.

Portland EMPACT Project. In partnership with EPA, carry out this project to measure multiple pollutants using a single state-of-the-art instrument. Report that data in real-time to the public in a meaningful way through mechanisms such as an Internet web site, and provide small grants for others to disseminate this information.

A-1-003 Regional emissions transport. Identify and implement regional strategies to reduce ground-level ozone and its precursors, nitrogen oxides and volatile organic compounds, transported from out of state, in order to meet or maintain the state/federal outdoor air quality standards within the entire state of Maine. Strategies will include collaborative efforts with federal, state and provincial governmental agencies, notably the Ozone Transport Commission, NESCAUM, the Northeastern Governors and Eastern Canadian Premiers Association Environment Committee, and STAPPA/ALAPCO.

Actions:

Inter-agency coordination. Actively participate in the Ozone Transport Commission and the Northeastern Governors and Eastern Canadian Premiers Association Environment Committee and coordinate regional control strategies with upwind states. Provide input and evaluation of EPA's proposals pertaining to Maine's Clean Air Act Section 126 petition and the Section 110 SIP call. Evaluate proposed controls and technology evaluation reports.

Transboundary pollution initiatives. Support and participate in the development and implementation of regional VOC and NO_x strategies in collaborative efforts with the Commission for Environmental Cooperation.

Modeling and assessment. Use ambient air quality databases, emissions inventories and meteorological data in modeling and assessment of pollution transport. Determine where the pollution that causes exceedances is originating and determine up-wind state contributions and rules needed through EPA.

A-1-004 In-state reductions. Through regulatory programs, market-based strategies, and voluntary measures, reduce the amount of nitrogen oxides and volatile organic compounds that are released from new and existing area, point and mobile sources, in order to meet or maintain the state/federal outdoor air quality standards for ozone within the entire state of Maine.

Actions:

Federally enforceable state operating permit program. License sources and implement the federally enforceable state operating permit program. Conduct compliance/enforcement.

- Implement a Title V program that is consistent with EPA implementation guidance, and integrate it with other EPA/state initiatives (e.g. pollution prevention) where feasible.
- After EPA's interim approval, modify Title V program as needed to ensure full EPA approval within EPA specified timeframes.
- Ensure that the Title V program is sustained by an adequate fee program.
- Issue (or draft and submit for public comment) 30 Title V air permits during FY 00.
- Continue to cooperate with EPA on joint training on Title III/Title V issues.
- Secure delegation of all outstanding NSPS and MACT/NESHAP standards for those source categories for which Title V sources exist in the State.

Standards evaluation and development.

- Incorporate by reference NSPS and MACT standards promulgated as of July 1999.
- Promulgate regulations to implement the Ozone Transport Commission NOx MOU in Maine.
- Hold workshops and public hearings on 7.8 vs. 7.2 RVP gasoline: develop enforcement procedure for gasoline coming into Maine.
- Develop and re-submit a revised 15% Plan upon reinstatement of the 1-hour ozone standard.
- Develop and re-submit a section 211(c) waiver request for the continued use of 7.8 RVP gasoline in southern Maine.
- Submit a redesignation request to EPA for Planning Areas 2 and 3 under the one-hour ozone standard.
- Determine risk to public health in areas that might become non-attainment.
- Engage in rulemaking to secure full approval of the Title V operating permit program.
- Submit single source VOC RACT SIP revisions for all outstanding sources.
- Submit SIP revisions for sources subject to the Shipbuilding, Aerospace and Wood Furniture Manufacturing CTGs.

Compliance.

- Please reference Compliance Strategy in Appendix A-1.

Mobile source program.

- Continue development and implementation of Section 177 Low Emission Vehicle program. Submit this program as a SIP revision if SIP credit is sought for air planning purposes.
- Set up and hold train-the-trainer workshop for the on board diagnostics (OBD) component of safety inspection, develop workshops for OBD train-the-mechanic, and develop on-going mechanics course with technical colleges to train mechanics in use of OBD for emissions testing.
- Assess results of on-road diesel testing program and coordinate program development with other states; implement state diesel testing program.
- Develop and submit transportation conformity rules as a SIP revision.

New Source Review program. Conduct and revise, if needed, New Source Review Program to meet EPA's New Source Review reform package.

Acid rain program. For new acid rain units, review monitoring plans, conduct certification test observations, review certification application test reports and recommend approval/disapproval within 75 days. For existing acid rain units, observe recertification tests and ongoing relative accuracy test reports and recommend approval/disapproval within 45 days.

A-2: Measurable Objective: Outdoor Air Quality Standards

By 2005, Maine's existing outdoor air quality standards for lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulate matter, toluene, and perchloroethylene will be met and maintained.
♦**Outcome Measures:** (a) outdoor (ambient) monitoring; (b) modeling results; (c) emission inventory (tons of pollutants/year).

A-2-005 Non-regulatory programs. Expand and implement a public education, pollution prevention and innovative technology assistance program that targets lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulates, toluene, and perchloroethylene emissions, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine.

Actions:

Outreach activities. Increase public awareness and stewardship regarding air quality issues through outreach activities targeted at the general public, school children, the regulated community, the media, and the legislature.

- Collaborate with other organizations (e.g., the OTC, EPA, NESCAUM, Maine Energy Education Project, Earthminders, the Natural Resources Council of Maine, and Maine's health care professionals) to educate the Department's customers regarding health and environmental effects of pollutants and to promote voluntary emission reductions.
- Optimize pollutant reduction through pollution prevention targeted at industry and encourage stationary sources to adopt environmental management systems that improve compliance and enhance pollution reductions.
- Work with other DEP bureaus and the Office of the Commissioner to find and implement Department education initiatives, including an informational statewide newspaper column, public service announcements, displays at fairs, workshops, and web page development.
- Promote awareness of and reduction in mobile source pollution through southern Maine's automobile inspection and maintenance program, a green car labeling program, eco-tourism and Clean Cities/Green Corridors, E-Vermont, Junior Solar Sprint and Electrathon, and other programs.
- Participate in a multi-media pollution prevention education program with the DEP Office of Technical Assistance for the concrete/precast concrete industry.
- Track issues related to energy use and electric utility restructuring in cooperation with other groups (e.g. Maine Chamber and Business Alliance's Energy and Environment Center, the Energy Advisory Council, the Maine Public Utilities Commission, NESCAUM, the Natural Resources Council of Maine, and the Northeast Energy Efficiency Partnership) and work with such organizations to try to minimize the impacts of restructuring and to promote environmentally sound power choices for Maine.

- Utilize existing monitoring and outreach efforts to begin addressing the problem of urban sprawl, and work with the Maine State Planning Office, the Department of Transportation, and other appropriate organizations in exploring ways to aid transportation planning and to minimize sprawl.
- Enhance the system for obtaining meaningful and diverse input from the public by improving the stakeholder process for program review, building on the existing Regional Ozone Committee stakeholder group and possibly expanding its membership and function.

Program re-evaluation.

- Identify potential new strategies outside of the traditional regulatory framework that will obtain co-benefits by targeting reductions in multiple pollutants and/or reductions within more than one medium (e.g. air, water, land).
- Implement a staff time-tracking system to be used as a tool in possible reallocation of resources.

A-2-006 Monitoring and database development. Continue to monitor outdoor air for lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, and fine particulates through a statewide network of air quality monitors, and continue to maintain the database on these pollutants that are released from new and existing area, point and mobile sources.

Actions:

Databases and data management. Maintain air quality ambient monitoring database.

- Continue reporting NAMS/SLAMS ambient and quality assurance data to AIRS within 90 days of the end of each quarter.
- Continue assessment activities with NAMS/SLAMS/SPM data.
- Submit the SLAMS Annual Summary Report.
- Submit an annual NAMS/SLAMS network review.
- Complete the transition from AIRS to the EPA's new National Emission Trends (NET) database, so that transfer of Maine's emissions data to EPA in electronic format can continue.

Monitoring network. Continue trend monitoring.

- To the extent that EPA / State of Maine provide funding, purchase replacement monitoring equipment and update the equipment inventory/assessment as part of the 5-year monitor replacement program.
- Respond to EPA's comments pertaining to the QAPP for PM 2.5 monitoring.
- Operate an approved NAMS/SLAMS air monitoring network with a minimum of 75% data capture.

Casco Bay Deposition Study. In partnership with EPA and the Casco Bay Estuary Project, conduct this study to develop an estimate of the proportion of key pollutants (e.g., mercury, PAHs, cadmium, nitrogen, and fine particles) entering the Bay from atmospheric deposition. The DEP will have varying degrees of shared responsibility to:

- Set up and maintain monitoring station, collect samples, assess data;
- Write report and develop a protocol for estimating atmospheric loads for selected pollutants.

Maine Ecological Assessment Project. Continue collaborative research efforts with the University of Maine, NESCAUM, and EPA's Acid Rain Division to assess the impacts of the emission reductions achieved under Title IV of the 1990 Clean Air Act on Maine's ecosystems. This project will also serve to establish an ecological baseline from which to assess the impact of future reductions in acid forming emissions on Maine's ecology.

Portland EMPACT Project. In partnership with EPA, undertake this project to measure multiple pollutants using a single state-of-the-art instrument. Report that data in real-time to the public in a meaningful way through mechanisms such as an Internet web site, and provide small grants for others to disseminate this information.

A-2-007 Regional emissions transport. Identify and implement regional strategies to reduce emissions of lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulates, toluene, and perchloroethylene transported from out of state, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine. Strategies will include collaborative efforts with federal, state and other inter-governmental agencies.

Actions:

Operate base program. Conduct licensing activities, compliance and stack testing activities. Conduct enforcement activities as appropriate.

Acid Rain Action Plan. In conjunction with the participating states and provinces, implement the 1998 Acid Rain Action Plan adopted by the Conference of New England Governors and Eastern Canadian Premiers.

Transboundary Pollution Initiatives. Support and participate in the development and implementation of regional acid deposition control strategies in collaborative efforts with the Commission for Environmental Cooperation.

A-2-008 In-state reductions. Through regulatory programs, market-based strategies, and voluntary measures, reduce the amount of lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulate matter, toluene, and perchloroethylene emissions that are released from new and existing area, point and mobile sources, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine.

Actions

Federally enforceable state operating permit program. License sources and implement the federally enforceable state operating permit program. Conduct compliance/enforcement activities and stack testing as appropriate. (Please reference Compliance Strategy in Appendix A-1.)

- Implement a Title V program that is consistent with EPA implementation guidance, and integrate it with other EPA/state initiatives (e.g. pollution prevention) where feasible.
- After EPA's interim approval, modify Title V program as needed to ensure full EPA approval within EPA specified timeframes.

- Ensure that the Title V program is sustained by an adequate fee program. Secure delegation of all outstanding NSPS and MACT/NESHAP standards for those source categories for which Title V sources exist in the state.
- Issue (or draft and submit for public comment) 30 Title V air permits during FY 00.
- Continue to cooperate with EPA on joint training on Title III/Title V issues.
- Develop Clean Air Act Section 112(e) submittal for dry cleaners.

New Source Review.

- Conduct and revise, if needed, New Source Review program to meet EPA's New Source Review reform package.
- Conduct rulemaking on an ongoing basis, as needed, to incorporate by reference new source performance standards into state regulations and notify EPA of delegation.

Acid rain program. For new acid rain units, review monitoring plans, conduct certification test observations, review certification applications test report and recommend approval and/or disapproval within 75 days. For existing acid rain units, observe recertification tests and ongoing relative accuracy test reports and recommend approval/disapproval within 45 days.

A-2-009 Standards setting. In reference to outside air monitoring results and the assessment of federal rules and health impact studies⁴, develop and implement new air quality standards necessary to protect public health, safety and welfare.

Actions

New standards.

- To the extent that 103 grant funds are available, continue to operate and maintain a statewide PM_{2.5} monitoring network consisting of the number of sites required to be established and operating by 12/31/98 in order to determine existing air quality levels of PM_{2.5}.
- Incorporate by reference NSPS and MACT standards promulgated as of July 1999.

A-3: Measurable Objective: Non-criteria Pollutants

By 2005, implement all federal control requirements and a voluntary program in order to reduce total mass emissions of the non-criteria pollutants listed in Chapter 137 of the Department's regulations by 25% (based on 1996 baseline data).

♦**Outcome Measure:** emission inventory, updated every two years, which tracks the total mass emissions of non-criteria pollutants, in terms of tons/year.

A-3-010 Non-regulatory programs. Expand and implement a public education, pollution prevention and innovative technology assistance program that targets the non-criteria pollutants listed in Chapter 137 of the Department's regulations.

⁴ In July 1997, EPA promulgated new standards for ozone and particulate matter, along with a program for the control of regional haze. Although the extent of Maine's nonattainment problem is not expected to significantly increase, the promulgation of these standards will require the assessment of Maine's air quality, along with the development of any necessary implementation plans to meet these new standards.

Actions

Outreach activities. Increase public awareness and stewardship regarding air quality issues through outreach activities targeted at the general public, school children, the regulated community, the media, and the legislature.

- Collaborate with other organizations (e.g., the OTC, EPA, NESCAUM, Maine Energy Education Project, Earthminders, the Natural Resources Council of Maine, and Maine's health care professionals) to educate the Department's customers regarding health and environmental effects of pollutants and to promote voluntary emission reductions.
- Optimize pollutant reduction through pollution prevention targeted at industry and encourage stationary sources to adopt environmental management systems to improve compliance and enhance pollution reductions.
- Cooperate with other DEP bureaus and the Office of the Commissioner to find additional resources for and to implement Department education initiatives, including an informational statewide newspaper column, public service announcements, displays at fairs, workshops, and web page development.
- Promote awareness of and reduction in mobile source pollution through southern Maine's automobile inspection and maintenance program, a green car labeling program, eco-tourism and Clean Cities/Green Corridors, E-Vermont, Junior Solar Sprint and Electrathon, and other programs.
- Participate in a multi-media pollution prevention education program with the DEP Office of Technical Assistance for the concrete/precast concrete industry.
- Track issues related to energy use and electric utility restructuring in cooperation with other groups (e.g. Maine Chamber and Business Alliance's Energy and Environment Center, the Energy Advisory Council, the Maine Public Utilities Commission, NESCAUM, the Natural Resources Council of Maine, and the Northeast Energy Efficiency Partnership) and work with such organizations to try to minimize the impacts of restructuring and to promote environmentally sound power choices for Maine.
- Use existing monitoring and outreach efforts to begin addressing the problem of urban sprawl, and work with the Maine State Planning Office, the Department of Transportation, and other appropriate organizations in exploring ways to aid transportation planning and to minimize sprawl.
- Enhance the system for obtaining meaningful and diverse input from the public by improving the stakeholder process for program review, building on the existing Regional Ozone Committee stakeholder group and possibly expanding its membership and function.
- Address global climate change issues by: collaborating with other organizations on public policy workshops, purchasing and distributing materials for classrooms and social organizations on the topics of global warming and community sustainability; teacher training and in-school education programs; energy education workshops; and outreach to the general public on energy choices.

Program re-evaluation.

- Identify strategies outside of the traditional regulatory framework that will obtain co-benefits by targeting reductions in multiple pollutants and/or reductions within more than one medium (e.g. air, water, land).
- Implement a staff time-tracking system to be used as a tool in possible reallocation of resources.

A-3-011 Monitoring and database development. Develop a monitoring program and compile a database on the non-criteria pollutants listed in Chapter 137 of the Department's regulations.

Actions

Monitoring network.

- Operate an approved PAMS air monitoring program that includes sufficient training for staff: establish the sites to complete the network and submit air quality, meteorological and quality assurance data to AIRS.
- Update PAMS data analysis plan and PAMS QA plan and implement plans according to the approved schedule.
- To the extent that EPA/State of Maine provides funding, continue to operate and maintain mercury and special purpose HAPs monitoring networks.

Casco Bay Deposition Study. In partnership with EPA and the Casco Bay Estuary Project, conduct this study to develop an estimate of the proportion of key pollutants (e.g. mercury, PAH's, cadmium, nitrogen, and fine particles) entering the Bay from atmospheric deposition. The DEP will have varying degrees of shared responsibility to:

- Set up and maintain station, collect samples, assess data;
- Write report and develop a protocol in conjunction with EPA for estimating atmospheric loads for selected pollutants.

Portland EMPACT Project. In partnership with EPA, under take this project to measure multiple pollutants using a single state-of-the-art instrument. Report that data in real-time to the public in a meaningful way through mechanisms such as an Internet web site, and provide small grants for others to disseminate this information.

Database development. Once delegation of a MACT standard is finalized, provide information necessary for OAQPS MACT Tracking System (a.k.a. MACTRAX), including the numbers of initial notifications, compliance certifications, extensions granted, and known non-compliers.

A-3-012 In-state reductions. Reduce mass emissions of the non-criteria pollutants listed in Chapter 137 of the Department's regulations, that are released from new and existing area, point and mobile sources by 25% through the implementation of federal control requirements, market-based strategies and voluntary measures.

Actions

Compliance program.

- Please reference Compliance Strategy in Appendix A-1.

Federally enforceable state operating permit program.

- Conduct rulemaking on an ongoing basis to incorporate by reference EPA's MACT standards into Maine regulations. Implement MACT through Title V licenses.
- Implement a Title V program that is consistent with EPA implementation guidance, and integrate it with other EPA/state initiatives (e.g. pollution prevention) where feasible.

- After EPA's interim approval, modify Title V program as needed to ensure full EPA approval within EPA specified timeframes.
- Ensure that the Title V program is sustained by an adequate fee program. Secure delegation of all outstanding NSPS and MACT/NESHAP standards for those source categories for which Title V sources exist in the State.
- License sources and implement the federally enforceable state operating permit program. Issue (or draft and submit for public comment) 30 Title V air permits during FY 00.
- Continue to cooperate with EPA on joint training on Title III/Title V issues.

New standards.

- Participate in national development of new MACT standards by reviewing EPA-proposed MACT standards relevant to Maine, identifying affected sources and identifying any potential problems with proposed standards.
- Incorporate by reference NSPS and MACT standards promulgated as of July 1999.

Air toxics reduction. Support the efforts of the River Valley Healthy Community Coalition (which is continuing the work of the former Northern Oxford County Coalition) by:

- Finalizing and presenting the air toxics emissions inventory;
- Continuing the air toxics monitoring in the valley;
- Analyzing the results and assessing the data;
- Developing a final report;
- Assessing the need to model the chloroform and other HAP emissions from Mead paper company in Rumford;
- Assessing the potential health impacts of tire-derived fuel burned at the Mead facility; and
- Periodically reporting back to the community.

Portland air toxics monitoring study. By setting up and operating 2-5 sites for a minimum of 1 year, conduct an air monitoring study in the greater Portland urban area to characterize and assess ambient air toxics using method TO 15..

Air toxics assessments in industrial settings. Begin to investigate and assess other potential locations for future air toxics monitoring characterization studies around industrial facilities having air toxic emissions for pollutants of concern.

Acid rain program. For new acid rain units, review monitoring plans, conduct certification test observations, review certification application test report and recommend approval/disapproval within 75 days. For existing acid rain units, observe recertification tests and ongoing relative accuracy test reports and recommend approval/disapproval within 45 days.

Monitoring and database development. Upon delegation of a MACT standard, provide information necessary for OAQPS MACT Tracking System (a.k.a. MACTRAX), including the numbers of initial notifications, compliance certifications, extensions granted, and known non-compliers.

A-3-013 Regional emissions transport. Identify and implement regional strategies to reduce emissions of non-criteria pollutants, particularly mercury⁵, transported from out of state. Strategies include collaborative efforts with federal, state and provincial governmental agencies, notably NESCAUM, the Northeastern Governors and Eastern Canadian Premiers Association Environment Committee.

Actions

Acid Rain Action Plan. In conjunction with the participating states and provinces, implement the 1998 Acid Rain Action Plan adopted by the Conference of New England Governors and Eastern Canadian Premiers.

Mercury Action Plan. In conjunction with the participating states and provinces, implement the 1998 Mercury Action Plan adopted by the Conference of New England Governors and Eastern Canadian Premiers.

Transboundary Pollution Initiatives. Support and participate in the development and implementation of regional mercury deposition control and abatement strategies in collaborative efforts with the Commission for Environmental Cooperation.

⁵See also strategy B-1-016.

B. LAND AND WATER QUALITY

GOAL: To ensure that land and water resources are protected, restored and enhanced as ecological systems supporting both the natural world and human activities, and to ensure that all waters of the state meet or exceed their classification standards.

B-1: Measurable Objective: Lakes and Ponds

By 2005, the overall trophic state of Maine lakes will be stable or improving.⁶ Continue and improve monitoring for toxics contamination in lakes to remove advisories.

♦**Outcome Measures:** (a) the overall trophic state of Maine lakes; (b) toxics levels (lakes without advisories).

B-1-015 Address nonpoint sources of pollution--loadings from runoff, sediment and groundwater (including stormwater management and erosion control). Address nonpoint sources of pollution through development and implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans (e.g., to replace malfunctioning septic systems).

Actions

Implement a lake protection strategy.

- Continue to implement the 1998 legislation setting up the Lakes Program:
 - Continue advisory panel (composed of representatives from outside the DEP who are knowledgeable on lake issues at the local level) to review the annual workplan and advise the DEP on program implementation;
 - Sponsor two staff in Soil and Water Conservation Districts (SWCDs) to promote watershed protection projects; and
 - Support the Volunteer Lake Monitoring Program.
- Continue to coordinate with EPA on the state stormwater permitting program and Federal stormwater general permits.
- Inspect 50% of stormwater permits and 20% of stormwater permit-by-rules (PBRs).
- Implement the Application Tracking System (ATS)/Stormwater Compliance Database for tracking of inspection and compliance activities.
- By 10/2000, develop DEP recommendations for actions to identify and abate excessive erosion and sedimentation from private roads and driveways in lake watersheds.
- Seek approval for recommendations contained in reports to the Legislature for improvement and maintenance of buffer strips along water resources and for identification and upgrade of substandard subsurface disposal systems.
- Continue phosphorus-free fertilizer campaign.
- Implement Family Lakes Day Program to inform lake users of practices that will protect their lake.
- Promote adopt-a-watershed curriculum in schools and continue to develop Watershed Guardians Program.

⁶Using the draft 1996 State of Maine Water Quality Assessment (305(b) Report) as a base line.

Monitoring and assessment. Enhance the Volunteer Monitoring Program (VMP). Continue to develop and implement tools to assess lake processes (biological assessment and dissolved oxygen modeling), vulnerability, and value. Continue mercury monitoring.

- Add 20 new lake volunteer monitors.
- Develop and implement protocol for total maximum daily load (TMDL) assessments for lakes in cooperation with EPA.
- Evaluate a Long Term Lakes Monitoring Program (LTLMP) for lakes. Once developed, forward copy to Maine Source Water Assessment Program.
- Conduct baseline monitoring on select lakes.
- Complete pilot study on internal cycling in low oxygen lakes with the University of Maine.
- Continue evaluation of the pollutant removal capabilities of selected best management practices (BMPs) and develop protocols for future evaluations.

Priority lakes.

- Provide technical or financial assistance for watershed surveys on Thomas Pond, Crescent Lake, Porter Lake, and many more lakes to be named pending the outcome of the FFY 2000 Nonpoint Source (NPS) grant awards.
- Provide technical or financial assistance for watershed management planning on the following lakes that have active watershed management planning projects: Damariscotta Lake, Thompson Lake, Great Ponds, and No Name Pond, and on lake watersheds to be named pending the outcome of the federal fiscal year (FFY) 2000 NPS grant awards. For lakes that are drinking water resources, forward results (recommendations and watershed management project progress) from this watershed management planning to the Maine Drinking Water Program.
- Provide technical or financial assistance for NPS Implementation Projects on the following lakes that have active NPS projects: Thompson; China; Webber; Threemile; Roxbury; Highland (Bridgton); Beech Hill; North Pond; Sabbathday; Tacoma; Tripp; Highland (Windham); Kettle Cove on Sebago Lake; Cold Stream Pond; Mousam; Branch; Turner Ponds and Allen Pond. Several more lakes to be named pending outcome of the FFY 2000 NPS grant awards.
- Provide technical and financial assistance to implement the Cobbossee Lake restoration project. Forward updates of technical assistance and restoration project progress to Maine Source Water Assessment Program.
- Initiate development of total maximum daily loads (TMDLs) for Sebasticook Lake, China Lake, and Madawaska Lake. Provide to EPA a cover letter for the Cobbossee Lake TMDL. Reply to EPA comment on TMDL for Cobbossee Lake and submit final TMDL.
- Develop a quality assurance project plan (QAPP) for Jock Stream in cooperation with Cobbossee Watershed District.

Implement the 319 Nonpoint Source Program Develop actions to prompt, encourage, and support widespread implementation of water quality BMPs to abate or prevent nonpoint sources of water pollution.

- Work with EPA to implement NPS Program Upgrade (9 key elements).

- Administer the NPS Grants Program to provide financial assistance to help support sponsors of NPS Implementation Projects. The primary objective of these projects is to reduce or prevent the pollutant load entering water resources from the identified nonpoint sources so that beneficial uses of the water resources are maintained or restored. By 2/2000, DEP will award FFY 2000 and federal funds for NPS Projects approved as a result of the 1999 Request for Proposals for Nonpoint Source Grants.
- Announce FFY 2001 Request for Proposals for NPS Projects in 1/2000. The request for proposals (RFP) will identify selection priorities through consultations with EPA and the Maine Watershed Management Committee.
- By 1/2000 allocate incremental Clean Water Action Plan (CWAP) FFY 2000 319 funds to develop or implement "restoration action strategies" for selected category #1 restoration watersheds.
- Continue assessment of pollutant removal efficiency of BMPs at 3 project sites.

Outreach activities.

- Provide statewide information and education, including both general education concerning the need for environmental protection and specific information concerning how to comply with environmental standards and licensing requirements.
- Conduct market research to improve the effectiveness of NPS outreach strategies.
- Utilizing the results of the market research, refine statewide NPS information & education efforts, continue to work with the lakes and coastal programs, and help staff to recognize opportunities to work with the media to enhance planned research efforts.
- Work with school groups through events and programs, including Children's Water Festival, Maine Environmental Educators, and Earth Minders.
- Work with and support local and regional watershed organizations.
- Support the annual Maine Water Conference.
- Implement the Nonpoint Education for Municipal Officials (NEMO) pilot project.
- Provide statewide technical assistance services to state and regional agencies, town officials, consultants, contractors and individuals. Develop local support for implementation of nonpoint source controls; assist in land use planning and regulation, particularly at the municipal level (e.g., provide assistance with comprehensive plan development, ordinance formulation, resource evaluation, watershed phosphorus allocations and review of specific project proposals etc.) assist in selection, design, construction oversight and maintenance of BMPs to address specific nonpoint sources; provide guidance, training and direct on site consultations for BMP users (e.g. road crews, code enforcement officers, engineering consultants, construction and forestry contractors, farmers); coordinate with EPA on program development and implementation.
- Maintain and update BMP guidance information documents distributed by DEP. Update the Stormwater BMP Manual.
- In order to encourage the use of water quality BMPs, provide and coordinate statewide technical transfer training to targeted groups of people involved in land use activities (e.g., code enforcement officers, road commissioners, contractors, state agency staff, municipal officials, land use professionals, engineers, camp road owners, etc.). Conduct 25 training workshops per year through the Nonpoint Source Training & Resource Center. Continue to promote contractor and professional certification in erosion and sedimentation control practices.

- Complete Phase 1 of Public Educational Access to Resources on Lakes in Maine (PEARL) website development.
- Provide geographic information systems (GIS) support and technical assistance for education and outreach activities including GIS production, education activities and data distribution.

Control non-point source sewage discharges. Provide technical and grant assistance to communities to eliminate discharges of untreated or partially treated wastewater.

Control point source discharges. Work with Corinna Sewer District to remove treatment plant outfall from the Sebasticook River and replace with new land treatment system or a discharge downstream of Sebasticook Lake.

B-1-016 Address nonpoint sources of pollution--loadings from air. Develop a strategy for dealing with certain types of loadings from air, focusing on persistent, bioaccumulative toxics. Support the Air Bureau in the Casco Bay Air Deposition Study. (See A-2-006)

Actions

- Monitor 5 additional lakes near mercury sources.
- Continue participation in Mercury Deposition network, fully funding one site and partially funding 2 sites.

B-2: Measurable Objective: Rivers and Streams

By 2005, reduce by 65 miles the portions of Maine rivers and streams that do not meet fishable/swimmable or other applicable water quality standards as a result of a decrease in pollutants from combined sewer overflows (CSOs) and other sources, excluding dioxin.⁷ By 2000, have dioxin levels in fish tissue above and below dischargers be the same.

♦**Outcome Measures:** (a)miles of rivers and streams meeting fishable/swimmable or other applicable water quality standards, excluding dioxin; (b)miles of fish consumption advisory due to dioxin.

B-2-017 Control point source discharges. Control point source discharges through licensing, compliance and enforcement, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

Actions

Paper mill licensing.

- EPA intends to reissue all seven paper mill National Pollutant Discharge Elimination System (NPDES) permits to implement the Cluster Rule, working in coordination with the Land and Water and the Air Bureaus.
- Continue to monitor compliance with the state's dioxin law.

⁷Using the 1996 State of Maine Water Quality Assessment (305(b) Report) as a base line. Approximately 448.8 of 31,672 river and stream miles (1.4%) do not fully support fishable-swimmable goals, and 97.3 miles (0.3%) do not meet designated water quality classification standards. **Note:** The 1996 Report pre-dates the state-wide mercury advisories. Mercury advisories represent a new area where we will need to establish a goal.

NPDES delegation.

- DEP submitted a formal request for NPDES delegation in November 1999. EPA will provide support in preparing the necessary documents and will strive to render a decision by January 31, 2000 or within 90 days of receipt.
- Using total quality principles, identify opportunities for improving waste discharge program services, including restructuring as necessary. Work with stakeholders to identify program improvements.

Mercury. (See A-3-013).

- Implement provisions of new mercury legislation (PL1999, c. 500).
- Gather data on levels of mercury in effluent and adopt a rule for purposes of establishing interim discharge limits for all mercury discharges.
- Incorporate multimedia and interagency coordination to bring chlor-alkali facilities into compliance with state and federal rules and regulations.
- Provide technical assistance tools to treatment plants to identify and address likely sources of mercury.
- Work with a stakeholder group to develop model pollution prevention plans by 12/1999 for direct and indirect dischargers. The plans will provide for assessment of sources, identification of alternatives, review of source reduction costs, implementation of reductions, and an education program on source reduction.
- Submit reports to the Legislature (1/2000 and 1/2001) on the status of mercury discharges from facilities and the implementation of their pollution prevention plans.
- By 1/2001, propose a statewide water quality criteria for mercury that is protective of human health, aquatic life and wildlife.

Toxic pollutants.

- Reopen/renew applicable licenses to include limits for pollutants with exceedences.
- Coordinate with the Joint Environmental Training Coordinating Committee (JETCC) to provide training on toxicity reduction evaluation (TRE) methodology.
- Adopt the 1998 recommended ambient water quality criteria for toxics. Post rule by December, 1999.

Monitoring and assessment. Concentrate monitoring activities in the Southern Maine River Basin during FFY 2000. (See A-2-006)

- Continue to refine the Dioxin Monitoring Program in order to assess compliance with the requirement that fish below bleach kraft mill outfalls have the same levels of dioxin as fish above outfalls.
- Continue to develop and refine new methodologies of biomonitoring to assess the effects of point and non-point water pollution and of hydropower on the attainment of the biological standards of Maine's Water Quality Classification Standards.
- Conduct invertebrate sampling in conjunction with the Surface Water Ambient Toxics Program, and sample for non-point source pollution and hydropower effects.
- Assess data provided by applicants for wastewater permits or 401 certification. Numeric aquatic life criteria will be proposed at public hearing by March 2000.
- Update Kennebec River water quality model by September 2000.

Total maximum daily loads (TMDLs). Salmon Falls River and Presque Isle Stream will be in the final licensing/implementation phase of the TMDL process. Complete the TMDL for Presque Isle Stream, including a response to public comments. Continue development of TMDL phased approach on Meduxnekeag River and Mousam River (at Sanford) in FFY 2000. (See B-1-015, Priority Lakes, TMDL development and B-3-20, Control point source discharges, TMDLs.)

Compliance and enforcement.

→ Please reference Compliance Strategy in Appendix A-1.

On-site POTW technical assistance. Provide technical assistance to municipal wastewater treatment plant operators to promote optimal treatment and reduce compliance problems. Evaluate federally-funded wastewater treatment facilities that have met all first year project performance certification requirements, have a design capacity of less than 5 mgd, and have operation and maintenance-related compliance problems.

St John/Presumpscot Watershed licensing. In coordination with EPA, issue all expired licenses for major and minor facilities in the St. John and Presumpscot River watersheds in FFY2000. Additional actions:

- Coordinate implementation of appropriate non-point source controls in the watershed;
- Consult multi-media data bases to see if it would be advantageous to target any sources in the watershed;
- If any such sources are identified, the programs will ensure that appropriate control strategies are in place; and
- Seek public education and outreach opportunities with local community groups.

Education and outreach. Provide statewide information and education including both general education concerning the need for environmental protection and specific information concerning how to comply with environmental standards and licensing requirements. Develop format for brochures that summarize background information and water quality by individual river basin for the general public. Produce 2 brochures by 3/2000.

Control point source discharges. Using State Revolving Loan funds, Rural Development loan and grant funds, and other sources of loans and grants to improve stream water quality:

- Work with the town of Van Buren to upgrade their aging waste water treatment facility to improve the water quality of the St. John River;
- Continue to implement enforceable schedules for abatement of Combined Sewer Overflows (CSOs) through waste discharge licenses and/or non-penalty consent agreements; and
- Continue to monitor design and construction of ongoing CSO abatement projects in communities such as Madawaska, Bangor, Brewer, and Lincoln.

B-2-018 Address nonpoint sources of pollution (NPS) loadings from land/water (including stormwater and erosion). Address nonpoint sources of pollution through implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans. [See B-1-015].

Actions

"Streams" rulemaking. By 1/1/2000, identify the watersheds of rivers, streams and brooks most at risk from new development (and sensitive or threatened rivers and watersheds), and establish water quality standards for inclusion in the rules adopted pursuant to the Stormwater Management Law.

Watershed assessment. Conduct watershed assessment activities, including the following:

- Develop and field test methods to conduct stream watershed surveys in order to prepare a stream watershed survey method manual.
- Identify waters threatened or impaired by NPS using the Watershed Pollution Potential Index and Stream Assessment Field Screening Method.
- Perform 104(b)(3)-funded comprehensive assessment of Long Creek Watershed.
- Provide technical or financial assistance for NPS Implementation Projects on rivers and streams that have active NPS projects: Meduxnekeag, Sheepscot, Pleasant & Naraguagus.

Stream Team Pilot Program. Establish Stream Team Program in a portion of the Casco Bay Estuary Project Watershed. The program is modeled after the Missouri program which uses one to two state agency staff to provide information, coordination, training, and recognition services to foster development of locally-based volunteer "stream team" groups. If the program is successful in Casco Bay, DEP would, in a future year, convert this pilot project to a statewide Stream Teams program.

Nonpoint Source Education for Municipal Officials (NEMO). Implement a NEMO pilot project in two subwatersheds of the Casco Bay watershed. The pilot areas will involve nonattainment waters and will have the requisite GIS coverage. NEMO is a program developed by the University of Connecticut Cooperative Extension and successfully implemented in Connecticut and other states. DEP will test the utility and costs of the NEMO targeted educational delivery methods to prompt communities to use BMPs.

Control non-point source sewage discharges. Provide technical and grant assistance to communities to eliminate discharges of untreated or partially treated wastewater.

B-2-019 Address nonpoint sources of pollution -- loadings from air. Develop a strategy for dealing with certain types of loadings from air, especially persistent, bioaccumulative toxics.

Actions See Strategy B-1-016.

B-3:Measurable Objective: Estuarine and Marine Areas

By 2005, reduce by 10% the square miles of estuarine and marine habitat in nonattainment due to bacterial contamination.⁸ Reduce the square miles not supporting designated uses due to other causes and, by 2005, develop a scientific basis to define non-attainment, impaired and threatened coastal waters so that measurable objectives may be set in relation to these causes.

♦**Outcome Measures:** (a) the square miles of estuarine and marine habitat in nonattainment due to bacterial contamination; (b) the square miles of estuarine and marine habitat not supporting designated uses due to other causes (insufficient information currently available to set measures); (c) method not yet determined for establishing measures concerning beach systems and associated coastal resources.

B-3-020 Control point source discharges. Control point source discharges through development and implementation of standards, monitoring and assessment, compliance and enforcement, educational and technical assistance, and provision of grants and loans.

Actions

Strategic use of State Revolving Load Fund (SRF) loans and DEP Grants.

- Using State Revolving Loan Fund (SRF) loans and DEP grants, work with the Waldoboro Utility District and Rural Development to replace the treatment plant outfall to the Medomak River with a new land application system. Start construction 5/2000 and finish construction 11/2001.
- Using SRF loans and DEP grants, work with the Town of Owls Head to replace overboard sewage discharges with a new collection system and a new wastewater treatment facility.
- Using SRF loans, continue to monitor the design and construction of ongoing CSO abatement projects in communities such as Augusta, Bath, Belfast and Rockland.

Continue enforcement/compliance initiatives.

- Please reference Compliance Strategy in Appendix A-1.

Total Maximum Daily Loads. Develop TMDL for Mousam River at Kennebunk Stockton Harbor at Stockton Springs, Royal River Estuary at Yarmouth, and the Piscataqua River Estuary at S. Berwick.

B-3-021 Address nonpoint sources of pollution -- loadings from land/water/air. Address nonpoint sources of pollution through implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

Actions

Open redeemable shellfish areas. Working with the Department of Marine Resources, target selected shellfish areas in coastal towns for removal of overboard discharges (OBDs) and straight pipes to enable the reopening of shellfish areas.

⁸Using the 1996 State of Maine Water Quality Assessment (305(b) Report) as a baseline, 382.5 sq.mi. nonattainment due to bacterial contamination; 38.4 partial attainment.

- Develop priority lists of selected shellfish areas for the Overboard Discharge Grant Program and Small Community Grant Program in the spring of 2000 through meetings with the Department of Marine Resources, Regional Planning Commissions, DEP staff, local officials, shellfish committees, and other interest groups.
- Complete ongoing projects in Bar Island (Bar Harbor), Mill Cove (Blue Hill), Barters Island (Boothbay), Gurnet Strait (Brunswick), Indiantown Island Cove (Boothbay Harbor), Bucks Harbor (Brooksville), Delano Cove (Friendship), McMahan Island (Georgetown), Prospect Harbor, (Gouldsboro), Popplestone Beach (Jonesport), Banks Cove (North Haven), Little River (Perry), Burntcoat Harbor (Swans Island), Bass Harbor (Tremont), New Meadows River (West Bath), Back River (Arrowsic), and Basin Cove (Harpwell).
- Provide GIS OBD Atlas Production data updates.

Casco Bay Estuary Project. Provide on-going technical and programmatic support to the Casco Bay Estuary Project, with a specific focus on environmental monitoring and assessment. Implement Stream Teams and NEMO pilot projects (**see Strategy B-2-018**).

Monitoring. During the 2000 field season, monitor toxic contaminants coastwide under Gulfwatch and SWAT. Develop marine database by 9/1/2000.

Water quality standards. Review dissolved oxygen standards and prepare report with recommendations 9/1/2000.

Education and outreach. Provide statewide information and education exchange focusing on habitat protection and toxic contamination.

Watershed assessment. Conduct watershed assessment surveys for Spruce Creek (Kittery) and New Meadows River (Brunswick and West Bath).

Beach systems. Furthering the recommendations of the Southern Maine Beach Stakeholders Group, work with the State Planning Office, Maine Geological Survey and Department of Inland Fisheries and Wildlife to help municipalities and other stakeholders develop regional beach management plans that establish goals, policies and recommended regulations. Participate in the development of specific beach management plans to ensure that the proposed policies and regulations are consistent with the intent of state law, and monitor the results of the plans. Work with Department of Human Services to develop and implement bathing beach bacteria standards.

CZMA 6217: As stated in May 1, 1998, letter from the Maine Land & Water Resources Council to EPA and the National Oceanic and Atmospheric Administration (NOAA), work with EPA, NOAA and state agencies to clarify and address conditions of approval of Maine's Coastal Nonpoint Pollution Control Program issued 2/23/1998, including the following:

- Designate the coastal program management area;
- With the Department of Agriculture, Food and Rural Resources (DAFRR) as lead, implement a strategy for agricultural management measures;
- With the Department of Conservation (DOC), Maine Forest Service (MFS) as lead, implement the 1999 MOA on joint enforcement of forestry management measures;

- Monitor implementation of the stormwater management law to ensure program effectiveness;
- Seek legislative approval of recommendations regarding protection of waterbodies and drainage ways through increased use of buffer strips (report submitted 1/13/1999 to Legislature; carried over to following session);
- Seek legislative approval of recommendations regarding the establishment of a program to inspect subsurface disposal systems that may be polluting surface waterbodies;
- With the Department of Transportation (DOT) (lead), develop a strategy for improving runoff control on existing roads, highways and bridges; and
- Develop a strategy for adopting stormwater management measures at new and expanded marinas by 12/31/2000.

Great Waters Program. Cooperate with ePA to operate the air monitoring station at Wolfs Neck State Park collecting data on airborne toxics. (See A-2-006)

B-4: Measurable Objective: Wetlands

Ensure no net loss of wetlands functions and values, that wetlands of special significance are identified and protected, and that the loss of all wetlands due to regulated activity is minimized. Maintain and analyze data base and assessment methods so that a measurable objective may be set.

♦**Outcome Measures:** (a) net change in wetlands of special significance; (b) net change in other wetlands (insufficient information currently available, to set measures).

B-4-023 Implement a wetlands program. Provide a wetlands program featuring review of projects under the Natural Resources Protection Act (NRPA), compliance and enforcement, monitoring and assessment, educational and technical assistance, and planning.

Actions

Mitigation. Upon completion of Casco Bay Watershed Wetlands Project by 12/31/99, assess mitigation priorities by June 2000, and analyze feasibility of establishing a program to target compensation at the highest priority areas. If feasible, develop draft rules for program by 12/31/2000.

Compliance and enforcement.

- Please reference Compliance Strategy in Appendix A-1.

Interagency coordination. Work towards better coordination on all wetlands permitting efforts with the federal agencies.

Wetlands Conservation Plan. Work in partnership with the State Planning Office (SPO) to implement the State Wetland Conservation Plan.

Identifying high priority wetlands: Wetlands Prioritization Pilot. By June 2000, develop priorities with state and federal partners for wetlands in the Casco Bay watershed using pilot project data. Provide an annual report to EPA and to the Maine Land and Water Resources Council by 8/10/00.

Wetland assessment. Initiate second watershed wetland assessment project based on the Casco Bay pilot project model.

Wetland monitoring. Participate in the Biological Assessment Wetland Workgroup (BAWWG) and the New England Biological Assessment of Wetlands Workgroup (NEBAWWG). Continue to development sampling protocols for wetlands as part of a pilot bioassessment project in the Casco Bay Watershed.

Wetlands tracking. Maintain a wetland tracking system to track loss of wetlands from permitted activities (4,300 square feet or more, in organized areas.).

- Merge Tier1/Tier2 wetlands database with ATS and Wetlands Loss Tracking System.
- Provide an annual report to EPA and to the Maine Land & Water Resources Council by 8/10/00.
- Enter location data onto the geographic information system (GIS) to allow assessment of cumulative impacts by 8/10/2000. (Note: contingent upon agreement from SPO.)

Water quality standards. Investigate status of state wetlands laws and rules for consistency with other surface water quality standards.

Education and outreach.

- Continue to provide training to municipal Code Enforcement Officers and Realtors.
- Provide education to school children through participation in Children's Water Festival and Envirothon.
- Partner with the State Planning Office to develop a brochure of Wetland Month activities.

B-5: Measurable Objective: Ground water

By 2001, have the fundamental understanding and data necessary to set measurable objectives for the protection of ground water quality and evaluation of use, value and vulnerability.

♦**Outcome Measures:** Current information insufficient to set measures.

B-5-025 Continue to support ground water protection. Continue to support ground water protection through development and implementation of standards, monitoring and assessment, and educational and technical assistance.

Actions

Vulnerability assessment. Extend ground water vulnerability methodology from pilot project areas to other areas. Provide interim report by 12/31/1999. Assess and compare data availability in high and low population areas.

Wellhead protection. Focus ground water protection efforts on wellhead protection areas prioritized by DHS. DEP will provide DHS-Drinking Water Program with potential contaminant source inventory data from the Ground Water Resource Database.

Groundwater Resources Database development and maintenance. Integrate use and maintenance of the Ground water Database within and between agencies.

- Add one project staff to update and maintain the Ground Water Resource Database for accuracy, currency and completeness. Add new potential contamination sites as needed.
- Coordinate with Bureau of Remediation and Waste Management staff to gather additional site and spatial information on known and potential contaminant sources.
- Develop MOU to use Department of Human Services (DHS)-Drinking Water Program Grant for completion of initial compilation of spatial and site information. Store data in the Oracle database for use in assessing trends in ground water quality, quantity and vulnerability.
- Develop contaminant source data for wellhead protection areas.
- Answer inquiries from other agencies, the Legislature, and the general public about potential ground water quality in areas of interest.
- Update and maintain the Ground Water Resource Database for accuracy, currency and completeness. Add new potential contamination sites as needed.

Priority protection. In priority watersheds, identify existing and potential sources of pollution using the contaminant source inventory. Assess and prioritize water supplies, and ground water dependent resources/habitats, for protection.

Underground injection control.

- Provide information on the control and abatement of underground injection control (UIC) activities and floor drain management.
- Continue the inventory and evaluation of UIC activities, finishing work in the Androscoggin Watershed and focusing next on the St. John and Presumpscot Watersheds over the next two years.
- Conduct inspections of potential ground water pollution sources in the Androscoggin, St. John and Presumpscot River Basins.
- Continue to identify known threats from UIC wells to ground water through continued UIC inspections, surveys of targeted industrial sectors, and outreach and education to code enforcement officers, public water suppliers and business leaders.
- Continue to update the UIC data base and collect geographical position system (GPS) data on UIC sites.
- Improve coordination with DHS regarding implementation of waste discharge law and subsurface wastewater disposal rules.
- Eliminate UIC wells through compliance assistance, education, and enforcement where appropriate.
- Verify identified UIC wells in conjunction with the Maine Drinking Water Program source water assessments produced in FY99. Inspect potential UIC wells in assessment areas as needed.

Education and outreach. Identify municipal needs for information on issues of concern related to ground water. DEP ground water staff will continue to lead ground water education efforts through publications, workshops and Children's Water Festivals.

B-6: Measurable Objective: Watershed and Ecosystem Health

Continue to work to protect ecosystems and, by 2005, develop the information base needed to establish measurable objectives for the protection of ecosystem health.

♦**Outcome Measures:** Initiate use of biological criteria for rivers and streams as health measures.

B-6-027 Continue to support ecosystem protection. Continue to support watershed and ecosystem health through the development and implementation of standards, monitoring and assessment, educational and technical assistance, and planning.

Actions

Site Location of Development law.

- Inspect 100% of all new Site Location permits.
- Working with the State Planning Office and the Municipal Advisory Group, identify municipalities with capacity to undertake local reviews. Provide municipalities with technical assistance to further build capacity.
- Revise the Site Location rules by 6/1/2000.

Erosion and Sedimentation Control Law.

- Develop plans for assessing compliance with the erosion and sedimentation control law, and for increasing public awareness, understanding and acceptance of the law.

Priority watersheds.

- Work with the Maine Watershed Management Committee to identify opportunities and actions that can be taken collaboratively and individually to protect or restore water resources within any of the listed NPS Priority Watersheds.
- Allocate incremental Clean Water Action Plan (CWAP) 319 funds to develop or implement "restoration action strategies" for selected subwatersheds within restoration watersheds (Category # 1 under the Unified Watershed Assessment).
- Continue to seek state funding to support the priority watershed grant program.

Natural Resources Mapping Project. Continue work with EPA and public and private stakeholders (with a state-wide interest) to finalize the report and make the report and data available electronically for future use in managing resources.

- Initiate a voluntary protection project through grant(s) to local resource management organization(s). [Note: propose dropping plans to do this due to proposed reconfiguration of the Natural Resources Mapping Project].

Biological indicators.

- Adopt numeric biological criteria regulations for rivers and streams by 12/31/1999.
- Support river and stream biological criteria database and spatial database.
- Seek means to integrate information from different waterbody types by coordinating selection of five wetland and river/stream sampling locations.
- Publish comprehensive river and stream biological monitoring report by 12/1/1999.
- Develop indicators of ecological condition including periphyton indicators, a NPS biological impact screening tool, and wetland bioassessment and criteria approaches. Develop quality assurance project plans (QAPPs).

Watershed assessment. In priority watersheds:

- Assess existing and potential sources of pollution to lakes, streams and coastal waters using volunteer watershed surveys and other assessment approaches.
- Assess and prioritize wetlands and riparian lands for protection.
- Submit to EPA the 2000 305(b) Water Quality Assessment Report to Congress on or before April 1, 2000. Provide electronic updates of waterbody assessments to EPA annually. Designate a DEP contact person for coordinating the 305(b) project.

Salmon conservation. Participate in an interagency effort to implement the Salmon Conservation Plan.

- Project managers of applications in the seven salmon watersheds make contact with the particular watershed association and consider salmon impacts in reviewing the applications.
- Work with growers, EPA, Army Corps of Engineers (ACOE), U.S. Fish and Wildlife (USF&W) to identify and implement alternatives to water withdrawal.
- Support interagency efforts to better define appropriate water levels, consistent with Class AA standards and associated designated uses, in the Pleasant River, Narraguagus River, and Mopang Stream.
- Conduct water quality sampling program on the seven rivers in cooperation with the watershed councils.
- Provide training to watershed councils on the NPS watershed survey methods.

Monitoring and assessment.

- Work with DEP Computer Services Division to implement Oracle STORET and convert data from existing databases to the Oracle system.

Aquatic biodiversity. Initiate the formation of a workgroup of state agencies (DEP, Department of Inland Fisheries and Wildlife, and Maine Natural Areas Program) and non-agency (The Nature Conservancy, Natural Resources Council of Maine and others) personnel to assess status of our knowledge about aquatic biodiversity and identification of issues requiring further study. Seek cooperative funding to support a staff position to assemble information on aquatic biodiversity. Conduct a workshop to present an assessment of existing knowledge of aquatic biodiversity in Maine.

Sand/Salt. Work with DOT to update the sand/salt priority ranking list, and to develop BMP rules for the priority 4 and 5 category sites pursuant to the new sand/salt legislation (Ch. 387).

Geographic Information System (GIS) data.

- Provide EPA with DEP surface and ground water GIS data that are available in the Bureau.
- Provide spatial data development for 303d listed waters.

Education and outreach: Include education and outreach in the employee performance evaluation system for each bureau staff person; continue NPS Awareness Campaign; support DEP Stewardship Campaign; support the Priority Watershed Project; continue the Nonpoint Source Resource and Training Center and other activities; provide technical assistance to municipalities to increase local capacity to review development projects.

Sludge group. Form an inter-bureau “sludge integration” committee.

B-6-029 Address usage issues as appropriate. As appropriate, assist in resolving usage issues, such as water withdrawal, water levels and dam relicensing.

Actions:

Agricultural irrigation plan. Work with agricultural community and others to implement an agricultural irrigation plan. (“Agricultural irrigation plan” is the same thing as “whole farm irrigation plan” under the irrigation pond general permit requirements.)

Flow maintenance. Work to maintain aquatic base flow (ABF) on all streams where ABF is not achieved due to withdrawals for irrigation or other water use needs. Maintain ABF (or existing natural flow if less than ABF) if ABF is currently being achieved.

Define low flow. Participate in five-year study with U.S. Geological Survey (USGS) and Central Aroostook Soil & Water Conservation District, Aroostook Soil & Water Management Board, and University of Maine Cooperative Extension Service to establish low flow (ABF) for small streams by 2005. Initiate study in 'downeast' salmon rivers. (The studies are expected to be specific to Aroostook and Washington Counties.)

Water withdrawal. Work with an interagency team to clarify DEP and other agencies' responsibilities, and make recommendations for further action as needed to protect surface waters from excessive water withdrawal.

Instream flow. Develop regulations to address instream flow issues by 2000; include EPA in review of draft regulations.

B-6-030 Provide leadership in environmental protection. Initiate and participate in the identification and resolution of emerging land and water quality issues, and development of methods of land and water quality protection. Foster development of innovative technologies that minimize or eliminate pollution and encourage facilities to operate beyond compliance.

Actions

Pollution prevention. Identify and encourage methods of pollution prevention.

- Prepare a municipal and industrial performance and pollution prevention measurement report.
- Provide technical assistance to municipal and industrial facilities to help them implement pollution prevention techniques and other innovative programs.
- Provide feedback to DEP staff and publicly operated treatment plant (POTW) operators on Municipal Water Pollution Prevention (MWPP) reports.
- Assist POTWs in conducting toxicity reduction evaluations.
- Assist POTWs in implementing mercury source reduction and education programs.
- Conduct POTW wet weather operations training.
- Work with cement industry to provide technical assistance and training in the area of water quality and source reduction. Coordinate with the Air and Remediation Bureaus in these areas, in compliance inspections, and, possibly, in BMP development and licensing.

- Along with the Department of Human Services; Division of Health Engineering, continue to implement a new program certifying installers of septic systems. (The Nonpoint Source Training and Resource Center (NPSTRC) sponsors the training programs through the Soil & Water Conservation Districts and JETCC: the Division of Health Engineering does the actual certification.)
- Through the NPSTRC, continue to work with the Maine Department of Transportation (MDOT) to conduct ongoing training programs certifying contractors in Erosion Control Practices. (MDOT provides instructors for portions of the training (Landscape Architects etc.))
- Work with staff from the Pesticides Control Board (Dept. of Agriculture) to include a section on non-phosphorus fertilizer and NPS pollution as part of applicator licensing and continuing education training.

Sprawl/patterns of development. Participate in several state government efforts to help better define this problem and potential solutions. (The State Planning Office has the general lead on the issue of sprawl.)

Action

- In cooperation with SPO, DEP, and the Maine Municipal Bond Bank (MMBB), develop a loan program that encourages efficient urban growth and discourages development sprawl through sewer infrastructure improvements.

C. MATERIALS HANDLING

GOAL: To protect public health, safety, welfare and the environment from pollution by oil, hazardous substances, solid waste or septage.

C-1: Measurable Objective: Contaminated Sites

By the year 2002, decrease by 15% the number of solid waste, hazardous substance and petroleum contaminated sites⁹ that pose an unacceptable risk to public health, safety, welfare and the environment.

♦**Outcome Measures:** (a) number of contaminated sites; (b) number of homes with contaminated drinking water; (c) number of sites returned to reuse; (d) number of plans reviewed; (e) number of final remedies selected; (f) number of sites under remediation; (g) number of sites with alternative water supplies; (h) number of hazardous waste facility closures conducted.

C-1-031 Emergency response. Conduct an effective emergency cleanup program responding to all reported spills of petroleum or hazardous substances.

C-1-032 Contaminated sites. Conduct the cleanup of petroleum and hazardous substances contaminated soil and ground water sites.

C-1-033 Abandoned sites. Conduct the cleanup of 15 state uncontrolled hazardous substance sites, and participate in the cleanup of 16 Voluntary Remedial Action Plan (VRAP) sites and return the sites to productive reuse.

C-1-034 "Federal lead" sites. Conduct the cleanup of 29 Superfund and Department of Defense sites.

C-1-035 Hazardous and solid waste sites. Process closure plans, require and oversee corrective action to control leachate, stabilize and monitor sites, and maintain the integrity of the sites to prevent harm to the public health, safety, welfare and the environment. By October 1, 2002, 20 percent of the 40 contaminated RCRA-C sites will no longer pose an unacceptable risk to public health, safety, or the environment. By the year 2002, the five Maine high priority sites identified on (Saco Defense, S. D. Warren, GTE-Standish, Maine Yankee, VanWaters and Rogers) will be at final remedy or will have interim measures completed that stabilize each site. By the year 2003, all facilities on the GPRA list that are still within the RCRA program (American Hoist and Derrick, HoltraChem, Saco Defense, VanWaters and Rogers, S. D. Warren–Westbrook, GTE-Standish, CYRO, and Maine Metal(Silvex)) will meet the environmental indicators for "human exposure controlled" and "groundwater releases controlled".

⁹As of July 1999, there are 446 hazardous substance and petroleum contaminated sites, 394 potentially contaminated solid waste sites (landfills), 440 state uncontrolled hazardous substance sites, 13 SUPERFUND sites, 167 Formerly Used Defense Sites, and 10 Department of Defense installations. Baseline numbers as of July 1997 were 384 hazardous substance and petroleum contaminated sites, 394 potentially contaminated solid waste sites (landfills), 444 state uncontrolled hazardous substance sites, 12 SUPERFUND sites, 167 Formerly Used Defense Facilities, and 10 Department of Defense installations.

Actions

Closure plans/corrective actions. Review, comment on, and make decisions on corrective action and closure plans for RCRA-C sites. The state will work on ten corrective action sites and five sites requiring closure oversight. For the ten corrective action sites, the state will develop a schedule for achieving applicable milestones, submit the schedule to EPA and provide summary of progress at the midyear and end of the year.

Risk assessments. Oversee risk assessments at RCRA sites. Make environmental indicators and final remedy decisions. Ensure public opportunity for comment on cleanup actions.

C-1-036 Financial responsibility. Administer the third party damage claims and insurance programs to compensate persons for damages. Determine eligibility and deductibles, and disburse funds to applicants to investigate and remediate discharges of oil from underground and aboveground storage tanks.

C-1-037 Outreach. Prepare and distribute to tank owners and operators educational materials that promote compliance with the leak detection and abandonment (removal) requirements. Provide guidance on state fund eligibility.

Actions

AST/UST efforts.

- Develop a home heating oil UST removal loan program as a strategy to encourage home owner compliance with the 1997 state removal deadline.
- Continue implementation (second year) of home heating oil AST replacement program for low income home owners using the eleven regional Community Action Programs as the assistance providers.
- Continue implementation of (second year) home heating oil AST replacement program in hydrogeological sensitive areas. Complete the existing projects on the coastal islands of Monhegan and Long Island and implement new projects on the islands of North Haven and Matinicus.

Funding.

- Continue implementation of strict cost controls and close tracking of the Ground Water Oil Cleanup Fund to provide the funding necessary to meet the LUST program financial obligations.
- Maintain a computerized oil contamination case tracking system for status and expenditures. Continue health risk based prioritization of sites for allocation of funding, and continue monthly monitoring of the Fund. Provide semi-annual status reports to EPA.

C-1-038 Information management. Maintain accurate state and national databases of hazardous waste and underground storage tank information.

Actions

Hazardous waste. Report information related to hazardous waste handlers, permits, closures, corrective actions, compliance and enforcement activities, and biennial report information to EPA for inclusion in the National RCRIS database. Please reference Compliance Strategy in Appendix A-1.

Oil. Maintain information regarding compliance with leak detection and upgrade requirements, inspection, compliance and enforcement initiatives, confirmed releases from oil handling facilities, cleanups initiated and completed, final remedy selection, and information relative to “state lead” cleanups and provide it to EPA for inclusion in the national database. Please reference Compliance Strategy in Appendix A-1.

Enhance use of technology. Where possible, employ more effective and efficient ways to gather and share information related to various databases.

C-1-039 Program implementation. Maintain adequate levels of trained staff to administer the hazardous waste, petroleum handling and PCB programs.

Actions

Training. Assess training needs of staff and seek cost effective training opportunities to ensure staff are adequately trained to effectively deliver program services. Participate in internal and EPA sponsored programs designed to train staff in delivery of technical assistance and regulatory guidance for UST owners and operators.

Staffing. Continue to assess the level and expertise of staffing required to accomplish the mission and objectives of the Department and the Performance Partnership Agreement.

Self assessment. Conduct an end-of-year review as the oversight evaluation for the RCRA-C program.

C-1-040 Program assessment. Conduct a comprehensive review of existing cleanup programs to evaluate the adequacy of total current program resources and allocation of such resources among programs. Identify and plan for transitions that will occur within programs. Evaluate potential funding options for achieving long-term programmatic objectives.

Actions

Research. Identify resource allocation, program goals, program needs and program transitions.

Funding. Examine various funding mechanisms and develop alternatives for consideration.

Stakeholder outreach. Communicate and solicit input on identified programmatic needs and on potential funding options.

C-2: Measurable Objective: Tire Stockpiles

Within five years, eliminate the significant environmental and health hazards posed by tire stockpiles as measured, in part, through the removal of a minimum of 15 million tires, from a 1996 estimate of 40 to 45 million tires, by the year, 2002.

♦**Outcome Measures:** (a) number of tires; (b) number of stockpiles; (c) number of tires removed; (d) condition of tire stockpiles; (e) number of tire stockpiles in compliance with standards

C-2-041 Unlicensed tire stockpiles. Conduct compliance/enforcement activities as necessary to effect abatements, promote the cessation of use of unlicensed tire stockpiles, and to bring unlicensed stockpiles into compliance.

C-2-042 State controlled tire stockpiles. Conduct abatements at state controlled tire stockpiles as financial resources are allocated.

C-2-043 Funding mechanism. Investigate alternative means of funding to effect more abatements in the most expedient manner.

C-3: Measurable Objective: Waste and Petroleum Management.

Annually, prevent any significant new illegal discharges and emissions, and minimize other risks to public health, safety, welfare, and the environment associated with the siting, design and operation of solid waste, septage, hazardous substance and petroleum facilities.

♦**Outcome Measures¹⁰:** (a) number of applications and registrations processed; (b) number of licenses issued; (c) complaints investigated; (d) compliance inspections conducted; (e) violations documented; (f) enforcement actions initiated; (g) technical assistance and education and outreach activities conducted (h) underground tanks removed; (i) wells affected; (j) the number of work years spent on applications; (k) the number of work years spent on complaint response, inspections, and enforcement activities.

C-3-044 Application processing. Process applications and approve those that meet or exceed siting, design, and operational requirements established in rule.

Actions

Applications.

- Evaluate, provide comments, and make decisions on at least one full facility and seven abbreviated license applications (RCRA-C).
- Ensure opportunity for public comment and incorporate public comments into decisions as applicable.
- Evaluate and process underground oil storage facility removal notices and new facility registrations.
- Process applications to the Ground Water Oil Cleanup Fund and present appeals to the Fund Insurance Review Board as necessary.

¹⁰It is recognized that these measures may be more accurately described as outputs as opposed to outcomes. However, the quandary created by the questions "How does one measure prevention?" and "How does one measure risk?" has yet to be solved and we continue to search for an appropriate means of quantification. Any suggestions for or guidance in solving this would be welcome.

C-3-045 Rulemaking/Authorization. Develop and update rules pertaining to waste oil, solid waste management (RCRA-D), hazardous waste management (RCRA-C) and underground petroleum storage facilities (RCRA-I) as needed to establish siting, design, and operational standards that minimize risks to public health, safety, welfare, and the environment and that are at least as stringent as the federal requirements adopted by the EPA.

Actions

Authorization.

- Submit a development plan to cover adoption and authorization of the following rules by March 31, 2000:

- RCRA IV 128, 131, 132, 134

- RCRA V 139, 140, 141

- RCRA VI 148, 151

- RCRA VII 153, 154, 155, 156, 157

- RCRA VIII 160, 161, 162, 163, 164, 166, 167, 168

- RCRA IX 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180

- HSWA Cluster I CL20

- Special Consolidates Used Oil Management Standards (RCRA-C)

- Submit the following draft rules and checklists for EPA comment by June 30, 2000:

- Non HSWA VI 73, 78N

- HSWA II 69, 75, 77, 79

- RCRA I 81, 86, 87

- RCRA II 97, 100

- RCRA III 113, 115, 118

- RCRA IV 126, 128, 131, 132, 134

- Special Consolidated Checklists BIF, LDR as of June 30, 1995, Beville Exclusions, TC (RCRA-C)

- Tentatively finalize universal waste rule by July 31, 2000 (RCRA-C)

Advisory opinions. Issue advisory opinions on the requirements of the RCRA programs and provide EPA with assistance on mutually agreeable issues.

C-3-046 Compliance.

- Please reference Compliance Strategy in Appendix A-1.

Actions

Field citations. Evaluate the continued use of field citations in coordination with EPA staff to resolve appropriate violations.

TSCA/RCRA.

- Please reference Compliance Strategy in Appendix A-1.

C-3-047 Above ground storage facilities. Where appropriate consider the effectiveness of current above ground petroleum storage facility regulatory standards and compliance efforts to prevent petroleum discharges in conjunction with the Wellhead Protection Task Force and other forums. Continue to implement the pilot program to remove substandard above ground oil storage tanks at residential locations.

Actions

Legislation. Introduce legislation to continue operation of the above ground oil storage tank replacement program. Work in concert with special interest groups to achieve consensus.

Wellhead protection. Actively participate in the legislatively mandated wellhead protection study that will consider, in part, whether there are potential ground water contamination sources (such as some ASTs) which may warrant additional controls.

C-3-048 Implementation. Continue to implement the joint DEP/EPA July 22, 1992 Memorandum of Agreement governing the implementation and operation of the Maine UST program.

C-3-049 Training. Ensure that people engaged in the handling of solid waste, septage, hazardous substances, and petroleum facilities are offered training on compliance with the regulations. With this information, the facility operators should then be able to ensure that their respective facilities are operated in compliance with the regulations to prevent illegal discharges, emissions, and other threats to Maine's public and its environment.

Actions

RCRA-C. Conduct two seminars for hazardous waste generators on the Hazardous Waste Management Rules.

UST Training. Conduct workshops as needed at different locations to provide regulatory and technical assistance to UST owners, operators and installers.

C-4: Measurable Objective: Abatement and Waste Transportation.

By the year 2002, reduce to insignificant levels¹¹ the risk to public health, safety, welfare, and the environment from the abatement of environmental hazards from, and the transportation of, solid waste, hazardous substances, and petroleum.

♦**Outcome Measures**¹²: (a) number of transporter applications processed; (b) number of abatement licenses and certifications issued; (c) number of notifications received; (d) number of compliance inspections conducted; (e) violations documented; (f) number of enforcement actions initiated; (g) number of training providers accredited; (g) number of LEAs (Local Education Agencies) in compliance with AHERA (Asbestos Hazard Emergency Response Act) requirements; (h) number of people reached through education and outreach and technical assistance activities; (i) number of federal DOT preemption determinations made against state transporter regulations;

¹¹The regulation of abatement, installation and removal, and transportation seeks to prevent the creation of *any* risks from these activities. However, due to the human factor in the performance of these activities, the measurable outcome of this objective reflects the reality that zero risk will not be achievable.

¹²It is recognized that these measures may be more accurately described as outputs as opposed to outcomes. However, the quandary created by the questions "How does one measure prevention?" and "How does one measure risk?" has yet to be solved and we continue to search for an appropriate means of quantification. Any suggestions for or guidance in solving this would be welcome.

- | |
|---|
| (j) change in the percentage of children screened who have lead blood levels in excess of 10 ug/dl;
(k) percentage change in number of demolitions reported in the ten largest municipalities. |
|---|

C-4-050 Training. Ensure that people engaged in lead and asbestos abatement activities, underground oil storage tank installation and removal, and waste (hazardous, biomedical, oil, and non hazardous) transport are adequately trained to properly abate, handle, and dispose of these wastes.

Actions

Lead licensing. Process applications for lead abatement licensing/certification; audit and accredit training providers; conduct training for lead professionals from Maine's four federally-recognized tribes.

Lead inspection quality control. Continue administration of a program designed to provide quality control of lead inspections performed by state certified lead inspectors, including both paper and field compliance inspections.

Asbestos licensing. Process applications for asbestos abatement licensing/certification. Audit and accredit training providers.

Reciprocity. Continue efforts to refine reciprocity agreements with other states and regions addressing certification and accreditation in both lead and asbestos abatement through the Consortium of Northeast States and Tribes (CONEST). This will include hosting the annual asbestos CONEST meeting in 1999.

Training course audits. Conduct targeted training course audits that conformance with CONEST agreements to ensure programs meet minimum standards and to provide constructive feedback to licensed training providers for improving course presentations and materials.

Educational initiatives for lead and asbestos.

- Distribute educational materials on proper lead and asbestos hazard abatement techniques.
- Coordinate with the Department of Human Services to conduct outreach and education activities for lead poisoning prevention.
- In cooperation with EPA provide real estate/rental lead notification forms and pamphlets as requested.
- Continue to distribute information regarding newly adopted revisions to DEP Chapter 425 (Asbestos) to target members of the regulated community.
- Provide training for compliance and management staff as needed.
- Continue working with training providers to improve current courses and offer new courses to the non-regulated community as warranted.
- Provide information on state and federal lead regulations, including 402, 406, and 1018, to abatement personnel and contractors, building management companies and maintenance personnel, realtors, landlords and the general public.
- Participate in regional efforts to coordinate lead poisoning prevention initiatives.

- Maintain database of homes inspected by state-certified inspectors, and make information from this database available to the public and to the Department of Human Services Childhood Lead Poisoning Prevention Program.
- Track annual numbers of asbestos-related disease and deaths to discern trends and use for educational efforts.

Public involvement in lead and asbestos.

- Continue implementation of MOU between the State and five Native American tribes in Maine to address training and compliance assistance needs.

C-4-051 Compliance for lead and asbestos. Conduct targeted field inspections, investigate complaints and take enforcement actions to ensure no public health or environmental risks are created through improper abatements, and that LEAs are in compliance with AHERA schools rules.

Actions

- Please reference Compliance Strategy in Appendix A-1.

NESHAP.

- Continue activities as the delegated NESHAP agency in Maine.
- Continue improvements involving a new reporting system for NARS with EPA and the DEP Bureau of Air Quality, and continue to enforce NESHAP violations under state authority.
- Develop a system to measure compliance with the demolition reporting requirements in the ten largest cities in Maine.

AHERA.

- Continue as "waiver state" for AHERA activities in the State.
- Continue inspection, enforcement, and outreach programs outlined in the waiver agreement to promote compliance with AHERA.

Pb 402.404. Continue compliance/enforcement activities as EPA-authorized 402/404 program.

Environmental justice. Continue working with five Maine-based Native American tribes to provide lead training to tribal members.

Lab certification. Provide financial assistance to the Department of Human Services Health and Environmental Testing Laboratory to maintain its lab certification for environmental lead samples.

C-4-052 Rulemaking. Develop and update rules pertaining to lead and asbestos management, to the installation and removal of underground and above ground storage tanks, and to the transportation of hazardous and non-hazardous wastes as needed.

Actions

Solid Waste/Lead.

- Subsequent to the promulgation of federal rules, organize and work with an advisory group to continue development of regulations on lead-based paint activities on commercial and public buildings and on superstructures. [NOTE: state rules will not be promulgated until federal rules have been adopted.]
- Subsequent to the promulgation of federal rules, develop and begin implementation of a strategy for seeking approval of new regulations on lead-based paint activities on commercial and public buildings and on superstructures.

C-5: Measurable Objective: Waste Reduction and Recycling

By the year 2002, increase by 10% (from 1996 levels) the portion of Maine's waste streams being managed through appropriate source reduction, separation, reuse, and recycling.

♦**Outcome Measures**¹³: (a) amount of waste managed; (b) types of waste managed; (c) amount of waste recycled in a sound manner; (d) number of enforcement actions initiated due to inappropriate reduction, reuse, and recycling techniques; (e) number of reuse and recycling permits issued.

C-5-053 Pollution prevention and technical assistance. Develop and implement hazardous waste and petroleum pollution prevention or technical assistance initiatives focused at gasoline marketers, the Lower Kennebec P2 Project, wood products technical assistance, and the STAR TRACK program.

C-5-054 Environmental Management Systems (EMS). Continue to investigate the relevance and applicability of environmental management systems (EMS) in various regulatory programs. Encourage the use of an EMS where appropriate.

C-5-055 Reuse of solid wastes. Following newly promulgated regulations provide education and technical assistance to encourage the safe beneficial use and agronomic utilization of solid wastes.

C-5-056 Household hazardous waste. Conduct a survey of state collection programs for household hazardous waste. Develop options for establishment of a collection program in Maine and/or mechanisms for encouraging additional source separation of toxic components in the solid waste stream.

¹³It is recognized that these measures may be more accurately described as outputs as opposed to outcomes. However, the quandary created by the questions "How does one measure prevention?" and "How does one measure risk?" has yet to be solved and we continue to search for an appropriate means of quantification. Any suggestions for or guidance in solving this would be welcome.

D. RESPONSIBLE MANAGEMENT AND ENVIRONMENTAL STEWARDSHIP

GOAL: To ensure that Maine's environment remains healthy and productive in perpetuity, through the efficient and effective delivery of department services and the development of an ethic of public responsibility for the State's natural resources.

D-1: Measurable Objective: Customer Service/Satisfaction

By the year 2001 determine baseline of the percentage of customers who report satisfaction with services received from DEP.

♦**Outcome Measures:** (a) survey results; (b) letters from the public; c) customer comment cards; (d) efficiency measures for systems improvements, (e.g. average complaint response time, average permit approval time).

D-1-057 Environmental complaint response system. Implement a department-wide complaint tracking and resolution system that will result in the expeditious handling of alleged environmental violations statewide.

D-1-058 GIS-supported license/permit review capability. Expand GIS capability, in order to access environmental resources data and allow staff from both regions and Augusta to assess the potential impacts of applicant activities with greater accuracy and efficiency.

D-1-059 Electronic submission of monitoring reports. Provide a system that allows regulated entities to submit monthly, quarterly and annual monitoring data in electronic form, thereby reducing the reporting burden and increasing the usefulness of the data to DEP.

D-1-060 Internal customer satisfaction. Continue to monitor the extent to which DEP staff feel their skills are fully and appropriately utilized, and, identify areas where teams are needed to identify and recommend improvements in processes, skills and/or internal systems.

D-1-061 External customer satisfaction. Initiate distribution and regular compilation of customer survey cards through all licensing and compliance programs with customer contact, and provide regular reports of results to DEP managers. Ensure that customer surveys are distributed through the broad array of DEP programs, not just in conjunction with permitting and compliance activities.

D-2: Measurable Objective: Environmental Stewardship

By the year 2002, 25% of Maine residents will report that they participate routinely in environmental programs or activities, up from a baseline of 12% in 1996¹⁴, and the number of business participants in environmental excellence initiatives will show a sustained upward trend.

♦**Outcome Measures:** (a) percentage of Maine residents reporting participation in voluntary environmental activities; (b) participants in DEP volunteer activities; c) voluntary compliance data; (d) number of participants in "environmental excellence" programs; e) number of attendees registering comments or requesting further information on comment cards distributed as part of DEP outreach initiatives.

¹⁴A total of 12% of respondents to the Maine Development Foundation's 1996 survey of Maine residents responded affirmatively to a question posed by DEP, to gauge this level of "stewardship".

D-2-062 Voluntary compliance and “Environmental Excellence”. Implement a range of programs that encourage voluntary compliance with environmental regulations and/or provide incentives for efforts that exceed minimum requirements and/or encourage non-regulated activities that result in environmental benefit.

Actions

Partnering. Partner with business sector, environmental groups, and other stakeholders to create and administer programs for oil wholesalers/jobbers and gasoline dispensing facilities.

Environmental Management Systems/STAR TRACK. Provide DEP support to review proposals, audits, and reports generated as a result of existing and future Environmental Management System pilots and STAR TRACK projects. Provide DEP review of XL proposals generated by Maine facilities.

D-2-063 Volunteer monitoring programs. Following the model of the successful volunteer monitoring efforts on Casco Bay and on Maine lakes, continue and expand volunteer monitoring programs to other watersheds, other geographic areas and other media (air, land use).

D-2-064 Education and outreach. Provide a comprehensive program of public education, consisting of materials, educational events and involvement opportunities, to educate citizens of Maine about the state’s environmental issues, the implications of those issues, and the steps they can take to address the environmental issues of concern to them.

Actions

- Comprehensive programs. Coordinate educational activities to develop a comprehensive program of public education.
- Multiple tools. Utilize agency-organized educational events, informational exhibits and materials developed by DEP and through collaboration with other entities, and staff participation in statewide outreach opportunities.

D-2-065 Citizen involvement. Conduct a statistically valid survey of general public to assess the involvement of Maine residents in environmental organizations, programs or activities.

D-3: Measurable Objective: Pollution Prevention

By the year 2006, the State will achieve a 60% reduction in the use of Extremely Hazardous Substances, a 60% reduction in Hazardous Waste generation and a 60% reduction in TRI releases.¹⁵

♦**Outcome Measures:** TUR program database

D-3-066 Voluntary compliance and “Environmental Excellence”. Implement a range of programs that encourage voluntary compliance with environmental regulations, provide incentives to exceed minimum requirements, and/or encourage non-regulated activities that result in environmental benefit.

¹⁵Based on the 1990 use of Extremely Hazardous Substances, the average of 1987/1989 hazardous waste generation and the average of 1990/1991 toxic releases in Maine.

Actions

Small Business Assistance Program. Provide focused compliance and pollution prevention assistance to Maine small businesses that use extremely hazardous substances, generate hazardous waste, and/or release TRI chemicals. Businesses include solvent users, surface coaters, wood products, concrete, metal platers, dry cleaners, printers, ready mix concrete companies, hospitals, public facilities and business subject to state and federal regulations. Assistance may include printed information, seminars, and on site assistance.

On Site Assistance Program. Provide on site compliance and pollution prevention assessments to any business or regulated entity that requests regulatory or P2 assistance. Specifically target those businesses in the metals and wood products industry, and sectors with documented compliance problems.

Partnering. Partner with business sector, environmental groups, and other stakeholders to create and administer the programs for regulated facilities.

Awards. Recognize outstanding pollution prevention projects completed by Maine businesses, individuals and non-profit organizations through the Annual Governor's Pollution Prevention Awards Program.

Environmental leadership. Provide DEP support to perform on site assessments and to review proposals, audits and reports generated as a result of existing and future EPA regional and national initiatives such as *StarTrack*, *Project XL*, and *NEEATeam Initiatives*.

D-3-067 Toxics policy. Implement the updated State toxics policy and program.

Actions

Program implementation. Implement the 1999 pollution prevention/toxic reduction law.

D-3-068 Pollution prevention and Environmental Management System Education. Provide pollution prevention and environmental management system education to DEP staff, the regulated community and the public through initiatives emanating from the Office of Innovation and Assistance and coordination with the other strategies in the PPG that explicitly include an educational component.

D-4: Measurable Objective: CLEAN STATE Initiative

By the year 2002 and in concert with the Department of Administrative and Financial Services, ensure that the state has conducted compliance and management system audits at 50% of state-owned facilities.

♦**Outcome Measures:** (a) number of agencies represented in training programs; (b) number of facility audits conducted

D-4-069 Consultant services. Retain consultant services to provide an array of technical expertise to the Initiative.

D-4-070 Training. Ensure implementation of an effective training program from which attendees can acquire assessment and auditing skills necessary to conduct cross-agency facility and management system audits.

D-4-071 Facility and management system audits. Ensure, through appropriate incentives, that state agencies commit to facility and management system audits.

INTRODUCTION

In serving the citizens of Maine, the Department of Environmental Protection (“DEP”) seeks to inspire a commitment to environmental protection and enhancement, promote innovation, provide exceptional customer service, and rely on strong science and state-of-the-art technology to achieve compliance solutions. This commitment promotes compliance, prevents violations, and allows the DEP to pursue the timely, consistent and equitable resolution of violations of the laws, regulations and permits it administers. As such, the DEP’s policies and activity commitments intend to: (1) encourage voluntary compliance with environmental statutes, regulations, licenses and permits; (2) provide incentives for regulated entities to go beyond compliance with source reduction and pollution prevention in order to achieve environmental excellence; (3) establish an appropriate and consistent approach to violations and violators; (4) ensure that appropriate corrective and future preventative actions are taken once a violation has occurred; (5) remove any incentives or opportunities gained by violating an environmental requirement; and (6) deter or prevent future violations.

CORE PROGRAM ACTIVITIES

1. Compliance Monitoring. The DEP uses a variety of options, or "tools," to encourage regulated entities to achieve compliance. These tools are used to avoid as well as resolve compliance problems. In each particular circumstance, the DEP evaluates the facts and exercises its discretion to determine which tool or combination of tools are appropriate to achieve compliance with environmental requirements. The result is a consistent and predictable compliance approach that retains enough flexibility to deal with the unique facts of a particular case or sector.

A. Voluntary Compliance. The DEP expects environmental requirements to be complied with voluntarily. Entities must be proactive in their compliance efforts by evaluating plans and operations to determine whether environmental requirements apply. The DEP has established programs and policies to further encourage voluntary compliance and beyond compliance activities by providing incentives to entities that approach the DEP seeking regulatory and technical assistance. The DEP views an entity’s voluntary compliance actions and overall environmental performance record when evaluating good-faith efforts to comply with environmental requirements.

These efforts, including our Small Business Compliance Incentives Policy, are available in all DEP programs. The specific use of voluntary compliance tools is spread throughout specific program compliance plans. Additional cross-program efforts are detailed in this section under *Special Initiatives*.

B. Licensing. The DEP issues customized licenses that balance environmental protection with the unique operations existing at a regulated entity’s site and facility. License provisions are clearly and concisely written to promote compliance and expedite any future compliance efforts. The licensee is responsible for understanding all provisions contained in their license. In this regard, the DEP expects licensees to determine the feasibility of conforming with all provisions contained in their license prior to accepting that license from the DEP. In addition, the licensee is responsible for ongoing compliance evaluations and immediately informing the DEP of any compliance problems. The DEP views immediate disclosure of compliance problems and immediate work to permanently resolve an issue as good-faith efforts that will be considered in determining an appropriate response.

The specific use of licensing to promote compliance is spread throughout specific program compliance plans. Additional cross-program efforts are detailed in this *Special Initiatives* section of this plan.

- C. Enforcement.** Regular inspections and enforcement of environmental requirements are key elements in gaining compliance. While a variety of tools exist for preventing and resolving compliance problems, the DEP may pursue formal, written, and legally binding resolutions to environmental violations where corrective action and/or penalties are appropriate. The DEP will select an appropriate course of action for enforcing Maine's environmental requirements based upon the facts of a case and the *Considerations for Determining Appropriate Responses* contained in our DEP-wide Compliance Policy. As a result, the DEP may use any one tool, or combination of tools, as each is appropriate to achieve compliance with environmental requirements. The DEP's preference in resolving civil enforcement actions is to reach agreements as quickly as possible that: remediate environmental damage; restore natural resources to appropriate conditions; impose penalties that capture any economic benefit gained by a violator; and, deter similar actions in the future.

Each program details its specific strategy for addressing situations where enforcement is necessary. The cross-program functions of availability for case review, multi-media action coordination, and review of all proposed resolutions are performed by the DEP Enforcement Director.

2. Compliance Assistance

- A. Education and Outreach.** The DEP maintains an Education and Outreach ("E&O") unit within the Office of the Commissioner. The E&O unit works with our Bureaus to offer education and outreach as a proactive means of helping the public understand, support, and comply with environmental laws, and to teach responsible environmental stewardship. This cooperative system has all Department staff delivering education and outreach on a daily basis and is the cornerstone for minimizing adverse environmental impacts and preventing environmental violations. These efforts range from holding seminars that provide wide segments of the population with general information to targeting particular facilities, locations, ecosystems, business sectors, and individuals. Outreach is an effective tool for educating the public about new regulatory requirements or stemming the tide of small, commonly observed violations. When a violation is discovered, education on how to comply and prevent recurrence is often an integral part of resolving that violation.

The specific use of educational and outreach tools for compliance purposes is spread throughout specific program compliance plans. Additional cross-program efforts are detailed in this section under *Special Initiatives*.

- B. Technical Assistance.** The DEP maintains an Innovation and Technical Assistance ("I&TA") unit within the Office of the Commissioner. The I&TA unit works with our Bureaus to targeted technical assistance where the expertise of the DEP is used to help solve a particular environmental problem at a particular location. Technical assistance can take the form of process consultation and advice in manufacturing or commercial operations aimed at reducing adverse environmental impacts through pollution prevention. It may be done informally as part of an inspection or telephone call, or more formally through one of the I&TA's technical assistance programs and designated technical assistance staff in the bureaus. Regulatory assistance, i.e. helping entities to understand regulatory requirements, is also a primary focus of the DEP and available as part of our daily activities. In the event of a violation, technical and regulatory assistance may be provided by bureau or I&TA staff to most efficiently remediate and correct the violations at issue.

The specific use of technical assistance tools for compliance purposes is spread throughout specific program compliance plans. Additional cross-program efforts are detailed in this section under *Special Initiatives*.

3. **Significant Non-compliance.** In accord with national enforcement policy, implementers of programs to enforce the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act are required to identify and address significant non-compliers to minimize or eliminate risk to human health and the environment. To this end, the DEP commits to: (1) undertake targeting strategies and inspection protocols designed to identify significant non-compliance; (2) identify detected significant non-compliers in national enforcement databases; (3) communicate and coordinate with EPA on enforcement actions undertaken in response to significant non-compliance, and (4) address these identified facilities with enforcement responses sufficient to ensure compliance and recovery of penalties. The activities described in this Compliance Plan satisfy these requirement. Monetary penalties recovered should be in accordance with federal and State penalty policies, but never less than the economic benefit of non-compliance and a gravity-based penalty sufficient to deter further non-compliance.
4. **Data Management.** There are no cross-program data management obligations. As such, the commitments described for each program constitute the DEP's obligations under the FFY00-01 PPG.

POLICIES AND SPECIAL INITIATIVES

1. **Smart Production and Consumption.** Companies are increasingly redesigning their operations to integrate production and environmental control systems that eliminate waste streams to the environment. The financial advantages of good environmental stewardship are becoming increasingly clear. An area of opportunity for DEP is taking a systemic, rather than pollutant by pollutant or purely regulatory, approaches to tackling priority activities.

The DEP is also will be building a different relationship with Maine citizens - one that acknowledges their increasingly prominent role in ensuring that environmental goals are set and met, challenged and reinforced. Industry promise and performance will be accountable to the public's interest in and demand for diminishing environmental impact. For the public to make its determinations, it must have real-time data. It must have the tools with which to create the market forces that drive economic competitiveness. Our ability to provide that data within a meaningful context will be critical to the overall success of the movement into Stage IV. We will need to redefine and substantially strengthen our efforts to engage and empower the public in its emerging role.

The opportunities mentioned below are not new initiatives, but issues in which DEP is already engaged. These are opportunities to learn and practice new approaches to project management, decision-making and problem solving. We will also evaluate the very real constraints that our existing systems and structures place on integrated approaches to problem solving. This will allow us to address potential barriers to long-term successful performance before we implement these new approaches more broadly.

- A. **Zero discharge.** Three pulp and paper mills have approached DEP, indicating a goal of moving their facilities to zero discharge. In the early 1990's, the Department invested a significant amount of its wastewater treatment expertise assisting mills in reducing pollutant loads to our waters. The results were dramatic, and most mills routinely operate well below compliance limits. The Department will develop a multidisciplinary team to provide the same top caliber technical and regulatory assistance to anyone who wishes to go zero discharge.
- B. **Hospitals.** Maine's hospital industry wants to act responsibly in deal with its wastes, but needs assistance. Since medical waste streams have the potential to generate many dangerous substances, including persistent bioaccumulative toxins, it is a logical sector to target. The

Department will continue to develop a multidisciplinary partnership with the hospital community to foster leadership in the industry.

C. Composites. From laminated wood to fiberglass to graphite, composites are a growing field. Lighter and stronger with each new generation, they present opportunities like recycling materials and the development of non-toxic matrices. Like the zero discharge initiative noted above, this is an area where the Department can serve as a source of information and expertise to help develop new, cleaner composite technologies. By becoming a resource, we hope to engage the public and the industry in a discussion about what “clean production” means for this sector and how best to achieve that goal. The Department is developing a team dedicated to understanding the needs and technology around composites and a targeted assistance program.

D. Mercury. This persistent bioaccumulative toxin has generated significant interest nationally and in the State of Maine, in part as a result of fish consumption advisories applying to certain species in all freshwater bodies of the State. Maine has two reports detailing what we know about the sources of mercury (*Land and Water Resources Council 1997 Annual Report: Mercury in Maine*) and mercury in our wastewater (*Mercury in Wastewater: Discharges to the Waters of the State, 1999*). In addition, there has been legislation dealing with mercury products, national efforts to reduce mercury emissions from power plants and enactment of universal waste rules to encourage recycling of mercury wastes. The Department is establishing a dedicated team to develop and implement a comprehensive, interdisciplinary approach to mercury reduction and elimination that reaches individuals, businesses and industries. This effort will be used to pilot an approach that we can use with other persistent bioaccumulative toxins.

2. Use of Toxic Use Reduction Information. The results of our TUR effort are one of our proudest achievements. The data demonstrates a 22% reduction in toxic materials used, a 53% reduction in toxics released and a 38% reduction in toxic waste generated, all since 1990. The newly reenacted TUR law keeps the program going and sharpens our ability to effectively use the information that is created. Internet availability of toxics information will allow the public to more actively engage in the process of toxics reduction. We will now be able to sort different types and volumes of toxics and facilities. It gives us a tremendous tool to focus our education, assistance and compliance efforts to get the biggest bang for the buck.

3. Integrating data systems. The corner stone of measuring discharges or the health of our environment is sound science based on accurate data. Our goal is to make as much of the data we collect available to the public to build their confidence and knowledge about the state of the environment and its protection. Public awareness is an important factor to drive environmental compliance. In order to achieve our goal, the data must be rigorously reviewed for accuracy and presented in a way that is easily accessible and understandable to less sophisticated users. These users must be able to combine data from multiple programs for a single facility or a geographical location of interest. Work is underway to demonstrate this concept by tying together several databases related to groundwater - including public drinking supplies, threats to groundwater (e.g. spills, storage tanks, discharge points and uncontrolled sites) and water quality sampling results. The result will provide new ways to look at the interaction of many activities relating to groundwater. Other areas of opportunity are the combining of permit, compliance and discharge data across programs.

4. Concrete. In 1999 the Department has wrestled with an industry with which it previously had little contact, the architectural pre-cast concrete industry. Their processes involve acids, metals and paints. In addition, a significant amount of “clean” and contaminated concrete waste is generated, and there may be volatile and particulate emissions. Our experience has shown us that the industry seems to need assistance in understanding environmental impacts and regulatory requirements.

5. **Environmental Management Systems.** Environmental Management Systems represent a relatively new and promising tool for applying a business systems approach to environmental protection. Whether the internationally recognized ISO 14001 standard or another is applied, Maine companies will likely be better environmental performers and will be able to increase marketing opportunities particularly in European markets. DEP will promote the uses of EMS's within multi-bureau programs, with staff training and within regulatory flexibility projects.

INTRODUCTION

The primary goals of Maine's air quality program are to ensure and enhance the continued health, safety and general welfare of all citizens of the State, so that everyone can breathe clean air every day of the year in every part of the State; and to protect plant and animal life as well as property from air contaminants created by human-derived air polluting activities of every type, and to render our air, land and waterways free from harmful levels of air contaminants.

This goal is quite lofty, as it should be, because it reflects the long range planning and efforts of the bureau. In carrying out this goal, the bureau operates within the powers and requirements specified in state laws and regulation. The role of the compliance assistance, monitoring and enforcement programs is to provide motivation to the regulated facilities in the State of Maine to comply with or go beyond the requirements of the State's air pollution control laws. This motivation will be provided by:

- Regular communications and positive feedback;
- Compliance assistance;
- On-site compliance inspections;
- Review and analysis of facility self-reporting;
- Monitoring of emission analyses; and
- When appropriate, enforcement.

CORE PROGRAM ACTIVITIES

1. Compliance Monitoring

A. Licensed Emission Facilities Inspections [A-1-004; A-2-007; A-2-008; A-3-012]. The Compliance Inspection staff prioritizes the licensed emission sources to be inspected by using an algorithm which takes a number of different factors into account. A description of this algorithm can be found on pages 68 and 69 of *Inspection Targeting III User's Manual September 30, 1995*. The factors that are the most weighty in the algorithm are the size of a facility's emission, the potential for non-compliance and the potential impact of non-compliance. Maine is a state with relatively few emission sources. The resulting inspection plan will include all major sources and the many stationary sources of VOC and NO_x. In FFY00 and 2001, the BAQ plans to conduct 175 stationary source field actions at 130 facilities each year. "Field activities" include facility inspections and observations of cylinder gas audits, relative accuracy tests, relative accuracy test audits and emission tests. About 30% (40) of the actions will be test related activities (i.e., emission test observations, relative accuracy test audits, cylinder gas audits). All 70 facilities with CEMS or COMS will be inspected at least once. Fifty VOC and NO_x RACT facilities and three metal finishing facilities will be inspected. All pulp & paper facilities and facilities of special concern will receive multiple visits. It should be noted that these subsets of facilities overlap, e.g. a RATA could be observed at a facility with a NO_x monitor thereby producing an action which could satisfy each of the three prior sub-categories. As stated earlier, most inspections will include some form of technical assistance.

As a result of Maine's rigorous compliance program, most major sources in Maine have conducted emission test within the past three years and each is inspected at least once a year. This compliance monitoring routine exceeds the minimum standard in the EPA national compliance strategy for 2000/2001. Staff will also factor "Synthetic Minor" facilities into the targeting system in order to confirm compliance with the license conditions that place the selected facilities in this category. Approximately 20 Synthetic Minors will receive inspections each year. Some Title V facilities in Maine will have compliance schedules. Compliance with the license schedules will be monitored by both the compliance and licensing staffs.

Actions will be documented with hard copy reports in the regional offices and central office files and information from the inspections entered into the national AIRS/AFS computer database.

Related EPA Priorities: *Ozone Non-Attainment NO_x and VOC; Synthetic Minor Source MACT/HAP; Major Sources inspected at least once in 4 years.*

MEASURE OF SUCCESS

➤ *Cumulative number of field actions in AFS*

- B. Title V Compliance Certification [A-2-007; A-2-008].** Part of the license issuance process involves review of all draft licenses by the Enforcement Unit and the appropriate compliance inspector. The Enforcement Unit reviews licenses to ensure that they are enforceable, and special emphasis is placed on the initial compliance certification process. The compliance inspectors also review the drafts for enforceability and for monitoring requirements which are needed to determine source compliance. New in the latter half of FFY99 and continuing in 2000/2001, the licensing staff and compliance inspectors are working closely with the Title V sources to insure that the annual compliance certification requirements are clearly understood by the licensees. A significant amount of time is being taken up in reviewing Title V drafts and working with the applicants. A significant amount of compliance time will be taken up in reviewing the complex compliance certifications that will be submitted pursuant to Title V requirements. Reported non-compliance will be addressed pursuant to the Bureau's compliance policy.

Related EPA Priorities: *Review Title V compliance certification and address non-compliance*

MEASURE OF SUCCESS

➤ *Number of annual compliance certifications reviewed*

- C. PSD/NSR Review [A-2-008].** The Commissioner's Office staff monitors economic development reports and alerts the Air Bureau to facilities which may fall under Prevention of Significant Deterioration and New Source Review requirements. Additionally, compliance staff examine facilities during inspections to ascertain if any changes/modifications/alterations/additions have been made that would require the facility to go through Prevention of Significant Deterioration ("PSD") or New Source Review ("NSR"). The Licensing, Compliance and Enforcement staffs will continue to communicate amongst one-another to ensure that licenses are efficacious. After a license is issued, a copy is sent to the appropriate inspector for his or her records and for entry into the facility data bases (AFS and ITS3).

Related EPA Priorities: *PSD/NSR major modification avoidance at pulp & paper facilities*

MEASURE OF SUCCESS

➤ *Number of facility investigations that staff participates in*

- D. Continuous Emission Monitor Systems.** The Bureau considers continuous emission monitor systems ("CEMS") another very important means of determining and insuring compliance with emission limits at Maine's larger facilities. Maine's CEMS program is based on DEP Rule Chapter 117, Source Surveillance which incorporates sections of 40 CFR Parts 51 and 60. In general all fuel burning equipment with a heat input capacity of greater than 100 million British Thermal Units and sources required by New Source Performance Standards to install and operate CEMS. The Bureau requires that these sources conduct quarterly Cylinder Gas Audits, and annual Relative Accuracy Test Audits or Relative Accuracy Audits for gaseous CEMS. Opacity monitors are required to undergo quarterly performance audits and annual drift tests. Facilities submit the results of these tests to the compliance inspectors for their review, and inspectors regularly observe the audits. Compliance inspectors review all quarterly continuous emission

monitoring reports for compliance and respond to all unusual incidents of monitor downtime or excess emissions within the quarter they are submitted. Problems will be brought to the attention of the Enforcement Unit. Thirty facilities are required to operate CEMS. As in previous years, all facilities with CEMS will be inspected. CEMS reports are recorded in EPA's PC-CEMS computer program and reviewed periodically for problems and trends.

Related EPA Priorities: *Review CEM reports and observe audits*

MEASURES OF SUCCESS

- *Cumulative number of test observations in AFS.*
- *Number of records in PC-CEMS*

- E. Emission Tests [A-2-007].** The Compliance Inspection and Enforcement staffs place a great importance on emission tests. Approximately 75 emission sources in the State of Maine are required to conduct emission tests. Specific test requirements are found in a facility's license and are derived from federal regulations and state regulations. Every emission license contains a condition which allows the Department to require emission testing for causes such as suspected non-compliance. Tests are conducted at various intervals, with the majority being tested annually, or every two years. A few facilities are required to test every three years. The testing frequency exceeds the 2000-2001 national strategy requirement. Test observations are documented with written reports and as actions in AFS. The compliance staff will survey the major facilities in the state in 2000 and 2001 to assess if any have not complied with test requirements. The Bureau of Air Quality will also assess the need for emission tests at major sources which do not currently have testing requirements and which have not been tested in the past seven (7) years.

Related EPA Priorities: *Emission test at facilities which have not been tested in five (5) years*

MEASURE OF SUCCESS

- *Number of test observations in AFS*

- F. Enforcement.** The Enforcement Unit will continue to seek increased compliance by the regulated community by removing the economic benefit gained through non-compliance. An important goal of enforcement actions will be to establish equity among regulated entities by creating a regulatory environment where it makes good business sense to comply with environmental regulations, and thereby create a deterrent effect on future potential violators.

Top priority will continue to be given to the resolution of ongoing enforcement actions. New enforcement cases will be developed (as resources permit) according to environmental/health impact, regulatory impact, and departmental initiative. The unit will emphasize enforcement on failed emission tests, violations of emission limits and noncompliance with "Synthetic Minor" license conditions. The unit will enter all emission tests observed by the emission testing coordinator, Notices of Violation, Consent Agreements and Referrals to the Office of the Attorney General into AFS.

Enforcement staff will continue to work closely with the Compliance Assistance Program by sharing information and finding ways to lend support to the Program. The Unit will review all licenses including "Synthetic Minor" licenses and Title V licenses to ensure that they are enforceable and special emphasis will be placed on the Compliance Certification process. When the Compliance Certification indicates violations, staff will take appropriate action.

- G. Tips and Complaints.** The Bureau of Air Quality receives about 100 complaints regarding air quality each year. Staff responds to all complaints in one fashion or another. Some will lead to field investigations and on rare occasions, enforcement actions. The staff strives to work with

local Code Enforcement Officials and State Forest Fire Rangers when it is advantageous in resolving a complaint. The Air Bureau started using the Department's complaint Tracking System in September 2000. The Compliance Inspection Unit will continue to document complaints in its regional office files. The regional offices will receive about 100 complaints in FFY 2000 and in FFY 2001 each. The Compliance Inspectors will try to respond to all complaints in one manner or another. The degree of response will depend on the circumstances of the complaint and can vary from a simple telephone call to an actual investigation.

MEASURE OF SUCCESS.

➤ *Number of complaints responded to*

- H. Gasoline Service Stations.** As part of Maine's 15% VOC reduction plan / 90% Rule Effectiveness, by the end of FFY99 staff will have inspected all but 150 of the 1375 gasoline service stations with a monthly throughput greater than 10,000 gallons for compliance with Stage 1 vapor recovery requirements. Staff will continue to inspect the remaining stations and conduct a limited number of re-inspections of Stage 1 facilities based on reports of noncompliance with the vapor control requirements from the Underground Storage Tank staff. About 30 Stage 1 facilities will be inspected in each year. The past year's experience with stations required to have Stage 2 vapor controls (88 facilities with greater than 1,000,000 gallons per year throughput in York, Sagadahoc and Cumberland Counties) have shown a high compliance rate with annual operations tests required by regulation. As a result, staff has reduced the amount of annual test observations to 75% (53 stations) of the facilities and conducting compliance inspections at the remaining stations. In FFY 2000 and 2001 each, the Compliance Inspections Staff will observe 53 Stage 2 tests. The test observations include the inspection of Stage 1 and Stage 2 components and will include outreach on the maintenance of vapor recovery systems.

MEASURE OF SUCCESS.

➤ *Cumulative number of actions conducted at services stations.*

- I. Hazardous Air Pollutant.** By the end of FFY98, all dry cleaners in Maine will have been inspected at least once. For 2000/2001, the Compliance Inspection staff will inspect 6 dry-cleaners each year. The facilities inspected will be based on the size of the facility, the length of time since the previous inspection and the propensity of the facility towards non-compliance.

The only facility in Maine which is subject to the chrome MACT is Saco Defense. This facility will be inspected as a high priority stationary source. To the best of the Air Bureau's knowledge, there are no chrome anodizing facilities in the state.

Related EPA Priorities: ***Air Toxics MACT Compliance***

MEASURE OF SUCCESS.

➤ *Cumulative number of actions conducted at dry-cleaners and Chrome MACT facilities.*

- 2. Compliance Assistance.** Compliance assistance is a coordinated effort conducted by both the Department's Small Business Technical Assistance Program and BAQ staff. The SBTAP will focus on the following air related compliance assistance efforts:

The SBTAP will continue to conduct general outreach and provide general assistance to the regulated community on a variety of compliance and pollution prevention issues by responding to general assistance requests, attending business conferences, and advertising assistance services and our 1-800 phone number in business publications. In FFY98 the SBTAP promoted its assistance services and provided compliance information at 16 business conferences and workshops. conducted 59 on-site compliance and pollution prevention assessments, and answered 154 general assistance requests. It is expected that the amount of general assistance activities will be similar for this year.

3. **Significant Violators.** The Enforcement Unit will strive to address at least one third of the significant violators on the books at the beginning of the fiscal year and all significant violators greater than two years old.
4. **Data Management.** The Compliance Inspection Staff uses EPA's antiquated AIRS/AFS data system to record actions at stationary sources. The Enforcement Staff uses this system to record enforcement actions. Although the system is onerous and difficult to deal with, it provides the advantage of communicating directly to EPA the status of stationary source activities. The data system facilitates the quarterly reviews of activities with EPA.

POLICIES AND SPECIAL INITIATIVES

1. **Environmental Management System Promotion.** In 1999, the Bureau of Air Quality had one of its inspectors certified as an ISO 14000 auditor. In FFY00, the Bureau intends to continue working both cooperatively with the DEP Office of Innovation and Assistance as well as independently in trying to have industries develop EMS plans for their facilities. In 2000 and 2001, the Compliance Inspection Program will approach two (2) facilities each year to introduce them to EMS.

MEASURE OF SUCCESS

➤ *Number of facilities contacted about EMS plans*

2. **No VOC Alternative Solvent Outreach Project.** The primary task of the SBTAP this year is to conduct focused compliance and pollution prevention assistance at vehicle repair and autobody shops in Cumberland, York, and Sagadahoc Counties which are currently in non attainment for ozone.

These businesses have been selected for assistance due to their regulatory burden under the Clean Air Act ("CAA") and other environmental laws such as the Resource Conservation and Recovery Act ("RCRA"), and because of the high likelihood of reducing their regulatory burden and environmental emissions through the use of proven pollution prevention technologies.

The ultimate goal of the proposed project is to work with the identified small businesses to help them reduce their pollutant emissions, from solvent cleaning and coating operations, to below regulatory thresholds thereby reducing their regulatory burden, reducing their operating costs, and reducing pollution to the environment.

Assistance will be delivered through a combination of fact sheets, phone calls, and onsite assistance. Promising technology of no VOC biological parts cleaners will be promoted.

3. **PSD/NSR at Pulp and Paper Facilities.** Investigations by EPA in other regions have indicated that a number of sources may have escaped required PSD/NSR reviews. While there is no indication that this has occurred in the State of Maine, EPA Region 1 will be conducting investigations of the pulp and paper industry in the state to see if these facilities have avoided PSD/NSR requirements. The compliance staff will cooperate with EPA during the investigations and when appropriate, offer assistance. The compliance staff will consider conducting PSD/NSR investigations after receiving adequate training in the topics from EPA and seeing the fruition of EPA's own investigations. If the compliance staff does conduct investigations, it will be in FFY01.

MEASURE OF SUCCESS

➤ *Number of facilities in compliance with PSD/NSR Requirements.*

- 4. Gasoline Dispensing Facility Environmental Leader Program.** DEP staff, including Air Bureau Compliance inspectors, will continue to work on and implement the Department's award-winning, multimedia compliance incentive program for gasoline service stations, the Environmental Leader Program. The Compliance Inspection staff will provide a training session to service station managers on compliance requirements for Stage 2 vapor recovery systems.

MEASURE OF SUCCESS

➤ *Number of station designated as Environmental Leaders.*

- 5. Mercury.** The Compliance Staff will be participating in the inspection of the larger potential sources of mercury air emissions in the State of Maine as its role.

MEASURE OF SUCCESS

➤ *Number of inspections completed.*

- 6. Startrack Environmental Leader Program.** The Compliance Inspection Staff will monitor the activities of facilities in EPA's Startrack Program

MEASURE OF SUCCESS

➤ *Number of facilities monitored.*

- 7. CAA 112(r).** The Bureau will provide EPA with a list of facilities which have a high probability of being affected by Section 112(r) for the Clean Air Act. As an outreach effort, the Compliance Staff will inform Title V facilities of the need to comply with Section 112(r) if the section is applicable to their facility.

MEASURE OF SUCCESS

➤ *Submittal of a list of facilities to EPA. Number of Title V facilities informed about Section 112 r.*

INTRODUCTION

The asbestos program is under the jurisdiction of the Director of the Division of Solid Waste Facilities Regulation and managed through the Asbestos Unit. Asbestos program staffing includes one (1) full-time manager, one (1) full-time compliance inspector, ½-time enforcement coordinator, and ½-time training coordinator, along with assistance from the clerical unit. All staff persons are located in Augusta and the program is entirely managed from there.

CORE PROGRAM ACTIVITIES

1. Compliance Monitoring [C-4-051]

- A. Compliance Inspections.** The types of compliance activities, including projected annual amounts, for asbestos abatement activities and their relative priority ranking are as follows: tips, complaints, and referrals of a serious nature (50 annually); large friable abatement projects (25 annually); new and/or out-of-state contractors (15 annually); small abatement or non-friable projects (35 annually); schools (50 annually); and demolition projects (new-expect 15 annually). Program standard operating procedures exist and are utilized for all types of compliance related activities.

MEASURE OF SUCCESS:

➤ *Number of compliance inspections conducted, including tips, complaints, and referrals.*

- B. Certification Issuance.** The DEP will continue to review applications for licensing and certification, and issue these credentials as appropriate.

MEASURE OF SUCCESS:

➤ *Number of professional certifications and company licenses issued.*

- C. Enforcement.** The DEP will pursue enforcement actions as appropriate for significant non-compliance and to gain compliance as needed.

MEASURE OF SUCCESS:

➤ *Number of "Letters of Warning" and "Notices of Violation" issued.*

2. Compliance Assistance. [C-4-050]

A. Education and Outreach

- 1) Training.** The Asbestos Unit will continue to offer presentations at initial educational courses targeted at the regulated community to enhance compliance. The Unit will also administer third-party course exams at all initial asbestos training courses. The Unit also trains at various meetings, seminars, and groups as requested (10 annually).

MEASURES OF SUCCESS:

➤ *Number of students attending presentations at courses.*

➤ *Number of training programs accredited.*

- 2) Written Correspondence.** The Unit will continue to distribute hundreds of educational pamphlets and respond to hundreds of phone calls annually in an effort to inform the regulated community.

MEASURE OF SUCCESS:

➤ *Number of people receiving educational materials.*

- 3) Telephone calls and e-mail.** The Unit will continue to respond to hundreds of phone calls annually to provide compliance information.

MEASURE OF SUCCESS:

➤ *Number of people given receiving information through phone calls and e-mail.*

- B. Technical assistance.** Technical assistance is provided as a service to the regulated community approximately 500 times per year through on-site visits and project-specific interpretations by phone (and hardcopy). The Unit is also part of an industry organization, which meets four times annually, geared at providing environmental information and education to the people of Maine. Last, the Unit will develop and distribute educational materials detailing changes to state regulations slated for adoption by year's end.

MEASURE OF SUCCESS:

➤ *Number of other technical assistance activities.*

3. Data Management and Reporting. [C-4]

- A. Data Management.** The Unit maintains several databases to ensure accurate program tracking and to provide up-to-date information to the public and regulated community. The databases that we will maintain include: Education and Outreach; Compliance Tracking; Enforcement Tracking; CERT; and CLASS.

MEASURE OF SUCCESS:

➤ *Timeliness of database updates.*

- B. Reporting.** The Unit will continue to provide monthly database updates and quarterly reports to EPA on program activities as required.

MEASURE OF SUCCESS:

➤ *Percentage required reports delivered.*

POLICIES AND SPECIAL INITIATIVES

- 1. Rule Training.** In response to the newly revised state asbestos rules, the Unit will present at least one rules workshop for the regulated community. The Asbestos Unit believes this type of outreach is necessary, particularly following regulatory changes, to alert the regulatory community to the changes and promote compliance.

MEASURE OF SUCCESS:

➤ *Number of attendees at rules workshop(s).*

- 2. Demolition Project Reporting.** The Asbestos Unit will also continue to implement, in conjunction with the affected city, a demolition reporting system with the ten (10) largest cities in Maine. This "hard-wired" system promotes greater compliance with state and federal rules, and reduces asbestos exposure to the general public and the environment. The Asbestos Unit will also undertake an outreach program to all other municipalities in the state to inform them of demolition reporting requirements.

MEASURES OF SUCCESS:

- *Percentage change in the number of demolition activities reported in the ten largest municipalities.*
- *Number of municipalities directly informed of need to report demolitions to DEP Asbestos Program.*

- 3. Training Course Revamp.** This past year, the Asbestos/Lead Training Coordinator has taken a number of Train-the-Trainer courses. To utilize this advanced training, the Training Coordinator will work with all Maine-licensed Asbestos Training Providers to refine and update asbestos training course curricula and teaching methods. More effective training will help to improve compliance.

MEASURE OF SUCCESS:

- *Number of consultations provided to Maine-licensed Asbestos Training Providers.*

- 4. Website Development.** Another special initiative that the Asbestos Unit will undertake is to place general program and regulatory information, and all program forms on a website. This will make this information and required forms more readily available to some members of the regulated community and the general public, and again could help improve compliance rates.

MEASURE OF SUCCESS:

- *Number of website hits.*

INTRODUCTION

The DEP lead program is managed by the Director of the Division of Solid Waste Facilities Regulation through the Planning and Program Assistance and Asbestos Units. Lead program staffing includes one (1) full-time compliance inspector, ½-time enforcement coordinator, ½-time training coordinator, and one (1) full-time environmental technician. All staff persons are located in Augusta, but utilize DEP's regional offices for field work.

CORE PROGRAM ACTIVITIES

1. Compliance Monitoring. [C-4-051]

- A. Inspections.** The priority criteria for DEP compliance inspections of lead abatement activities include: activities as a result of an order to abate by Maine's Department of Human Services ("DHS") in response to a lead-poisoned child; tips and complaints of illegal activities; work performed under funding from the Center for Disease Control and/or HUD; and other abatement work. DHS orders an average of 50 abatements annually; DEP will inspect at least 80% (40) of these projects (see Strategy C-4-046). The DEP will also continue its program of quality control inspections with licensed lead inspectors and risk assessors.

MEASURES OF SUCCESS:

- *Percentage of DHS-ordered lead abatement worksites inspected for compliance.*
- *Percentage of lead inspectors and risk assessors receiving quality control inspections.*

- B. Certification Issuance.** The DEP will continue to review applications for licensing and certification, and issue these credentials as appropriate.

MEASURE OF SUCCESS:

- *Number of professional certifications and company licenses issued.*

- C. Enforcement.** The DEP will pursue enforcement actions as appropriate for significant non-compliance and to gain compliance as needed.

MEASURE OF SUCCESS:

- *Number of "Letters of Warning" and "Notices of Violation" issued.*

2. Compliance and Technical Assistance [C-4-050]

- A. Training.** The Lead Unit will continue to offer presentations at initial educational courses targeted at the regulated community to enhance compliance. The Unit will also administer third-party course exams at all initial lead training courses.

MEASURES OF SUCCESS:

- *Number of students attending presentations at courses.*
- *Number of training programs accredited.*

- B. Coordination of educational efforts.** DEP will continue efforts to develop audience-specific educational materials, and to coordinate with DHS to conduct outreach & education activities for lead poisoning prevention.

MEASURES OF SUCCESS:

- *Number of educational forums including both DEP and DHS.*
- *Change in the percentage of children screened who have blood lead levels in excess of 10 ug/dL.*

- C. Written Correspondence, telephone calls and e-mail.** . The Unit will provide written educational materials to the public on an as-needed basis to ensure that people working around lead-based paint do not create lead hazards. The DEP will also continue to distribute information via phone calls, e-mail, and mail on the state “Lead Management Rules”, the federal real estate disclosure rule, and on federal rules adopted in conformance with TSCA Sections 403 and 406.

MEASURE OF SUCCESS:

➤ *Number of people receiving compliance information and educational materials.*

3. Data Management and Reporting. [C-4]

- A. Data Management.** The Unit maintains several databases to ensure accurate program tracking and to provide up-to-date information to the public and regulated community. The databases that we will maintain include: Education and Outreach; Compliance Tracking; Enforcement Tracking; CERT; LEAD-NET; and, CLASS.

MEASURE OF SUCCESS:

➤ *Timeliness of database updates.*

- B. Reporting.** The Unit will continue to provide monthly database updates and quarterly reports to EPA on program activities as required.

MEASURE OF SUCCESS:

➤ *Percentage required reports delivered.*

POLICIES AND SPECIAL INITIATIVES

- 1. Training.** This past year, the Asbestos/Lead Training Coordinator has taken a number of Train-the-Trainer courses. To utilize this advanced training, the Training Coordinator will work with all Maine-licensed Lead Training Providers to refine and update lead training course curricula and teaching methods. More effective training will help to improve compliance.

MEASURE OF SUCCESS:

➤ *Number of consultations provided to Maine-licensed Lead Training Providers.*

- 2. Website Development.** The DEP will update materials and continue to add new information and links to the website established for the lead program under last year’s grant.

MEASURE OF SUCCESS:

➤ *Number of website hits.*

- 3. Environmental Justice Initiative with Native American Tribes.** Last year the DEP finalized an MOU with four Native American Tribes in Maine. This MOU addresses the areas of training, compliance, certification, and licensing for lead professionals and contractors. The DEP will continue to implement the terms of this MOU in 2000.

MEASURE OF SUCCESS:

➤ *Number of Native Americans attending DEP-sponsored trainings.*

- 4. Lead-Safe Child Care.** The DHS oversees daycare facility licensing in Maine. As of July 1, 1998, daycare facilities are required to be lead-safe prior to re-licensing. DHS is implementing a process to

provide lead inspections to daycare facilities determined to be at risk of having lead hazards. Throughout FFY00, the DEP will continue to work with DHS to target our quality assurance/inspection compliance efforts on work performed for daycare licensing.

MEASURE OF SUCCESS:

➤ *Number of child care facilities receiving lead-safe certificates.*

INTRODUCTION

Maine's hazardous waste compliance activities are primarily conducted by the Hazardous Waste Enforcement Unit, which is currently staffed with four (4) hazardous waste ("RCRA") inspectors, one (1) RCRA- and PCB-combined ("TSCA") inspector, and one (1) enforcement unit supervisor. Maine is divided into four (4) geographic regions. Inspectors are assigned regional coverage responsibilities or are regionally based so that the enforcement unit appropriately serves each region. Two (2) inspectors, one (1) RCRA inspector and one RCRA- and PCB-combined inspector, are located in the Portland Office. The other staff are located in the Augusta office. There is one (1) vacant RCRA inspector position due to a recent personnel transfer. The Department is currently in the process of recruiting candidates to re-fill the RCRA inspector position. It is anticipated that once that position is filled it will take a few months before the person can be fully trained and productive in conducting enforcement inspections and related duties.

CORE PROGRAM ACTIVITIES

- 1. Compliance Monitoring [C-1].** In FFY00/01, DEP will conduct a total of one hundred twenty (120) compliance evaluation activities, including ninety-four (94) RCRA compliance inspections and twenty-six (26) PCB inspections or projects, consistent with the goals of performance, flexibility and accountability provided under the PPA. During FFY00, it is expected that the DEP will conduct fifty-eight (58) inspections, including forty-five (45) RCRA inspections and thirteen (13) PCB inspections. During FFY01, DEP expects to conduct sixty-two (62) inspections, including forty-nine (49) RCRA inspections and thirteen (13) PCB inspections.

Based upon available staffing and funding, DEP's Hazardous Waste and PCB Compliance Program has selected an array of strategic compliance activities which are important to achieving Maine's goals of protecting and improving human health and the environment for all its citizens. These activities include Complaint Inspections, Large Quantity Generator ("LQG") Inspections, Non-notifier Inspections, 100-1000 kg/mo Generator Inspections, Treatment Storage Facility Inspections, Hazardous Waste Transporter Inspections, Habitual Violators/Follow-up Inspections, Land Disposal Facility Groundwater Monitoring Inspections, and PCB Inspections. These inspection activities and the specific focus within each activity are described as follows:

- A. Hazardous waste generators that produce between 100-1000 kg of hazardous wastes per month (federal SQGs).** DEP will conduct fifteen (15) federal SQG inspections, seven (7) during FFY01 and eight (8) during FFY01. Prior to FFY95, DEP had traditionally focused its inspection resources on generators who produce greater than 1000 kg of hazardous waste per month (LQGs). Based on the information contained in EPA's Resource Conservation Recovery Information System ("RCRIS") federal SQGs outnumber LQGs in Maine by a ratio of 7:1. There are over six hundred (600) federal SQGs in Maine. Federal SQGs generate the same types of hazardous wastes as LQGs and pose potentially greater risks to human health and the environment due to the larger number of handlers and associated locations, along with typically fewer resources and personnel dedicated toward compliance issues or programs. The DEP expects to focus on drycleaners, concrete manufacturers, the composites industry (industries using fiberglass and resin-based materials including boat manufacturing and repair), metal products facilities (SIC347), and other federal SQGs. EPA has identified Drycleaners and metal products facilities as national priorities. Concrete manufacturing and the composites industry have been identified as state priorities. Concrete manufacturers and the composites industry will be targeted for compliance inspections during the second year of the grant period, following the compliance assistance activities provided to these sectors during the first year of this grant (see the *Policies and Special Initiatives* section below).

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- B. Treatment Storage Facility (“TSF”) Inspection.** The RCRA program will conduct two (2) TSF inspections during the FFY00-01 grant period, one (1) TSF inspection during each fiscal year. Currently, there are three (3) RCRA TSFs and one (1) PCB TSF licensed in Maine. The inspections will be targeted to two of those facilities which have not been inspected since FFY97.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- C. Large Quantity Generator (“LQG”) Inspections.** The RCRA Program will also conduct fourteen (14) LQG inspections as part of its core program, six (6) inspections during FFY00 and eight (8) inspections during FFY01. Currently, there are about ninety (90) federal LQG facilities registered in Maine. For the LQG inspections, the RCRA program will focus its resources on metal products facilities (SIC347), those facilities not previously inspected, or not inspected within the last five years. EPA has identified the metal products facilities sector as a national priority. In addition, priority will be given to those facilities that have never been inspected, unless other information indicates that the likelihood of waste generation and a waste management problem is low (i.e. based on review of manifests and annual reports or facility knowledge from other programs). Additionally, priority will be given to those facilities that have been the subject of a complaint that has not yet been investigated or a referral from another program.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- D. Complaints.** DEP will conduct thirty-five (35) complaint investigations, seventeen (17) during FFY00 and eighteen (18) during FFY01, with the potential to conduct more (depending on the number of complaints received). DEP continues to develop its complaint tracking and response procedures to investigate as many of the complaints received as possible, with a goal of addressing 100% of the complaints. Over the past ten (10) years, DEP has received thirty-five to fifty-five (35-55) citizen complaints per year involving alleged mismanagement of hazardous waste. These complaints often originate from individuals that have first hand knowledge of illegal waste management practices at particular Maine facilities. These complaints also originate from locations statewide and the investigations are strategically important to the DEP in maintaining an enforcement presence and responding appropriately to citizen concerns. This information not only identifies a specific target for the program to focus its attention, but develops and fosters credibility for the RCRA program in the eyes of the public which is necessary for continued public support of the program’s goals and initiatives. This activity is an important core function of the program.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- E. Non-Notifier Inspections / Partial Inspections.** The DEP will identify and conduct at least sixteen (16) partial inspections at non-notifiers, eight (8) inspections in each fiscal year of the grant period. A Non-notifier is a facility that generates or is expected to generate hazardous

wastes but has not notified the EPA or DEP of its hazardous waste generator activities and may not have properly manifested wastes off-site for licensed hazardous waste disposal. The DEP expects to focus on drycleaners, concrete manufacturers, institutional educational facilities, and other non-notifiers. EPA has identified Drycleaners as a national priority. Concrete manufacturing and the composites industry have been identified as state priorities. Concrete manufacturers and the composites industry will be targeted for non-notifier compliance inspections during the second year of the grant period, following the compliance assistance activities provided to these sectors during the first year of this grant (see the *Policies and Special Initiatives* section below). Although partial inspections are planned, full compliance inspections may be conducted at these facilities depending upon the status or level of compliance found at the time of inspection by the RCRA inspector.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- F. Hazardous Waste Transporter Inspections.** The DEP will conduct two (2) hazardous waste transporter inspections, one (1) inspection during each fiscal year of the grant period, at hazardous waste transportation facilities based in Maine.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- G. Habitual Violators/ Follow-up Inspections.** The DEP will conduct six (6) inspections, three (3) inspections during each fiscal year of the grant period, at facilities that have been the subject of one or more informal or formal enforcement actions as a result of inspections or record reviews by the program. These inspections will serve as follow-ups to these previous enforcement actions to ensure that past violators are held accountable to compliance schedules and maintenance.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- H. Land Disposal (“LD”) Facility Groundwater Monitoring Inspections.** Currently, there are five (5) former land disposal facilities in Maine. The DEP will conduct four (4) inspections at former land disposal facilities, two (2) inspections during each fiscal year of the grant period, for groundwater monitoring activities related to the site. Three (3) of these inspections will be Operations and Maintenance (“O&M”) type inspections and one (1) will be a Compliance Evaluation Inspection (“CEI”).

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- I. Polychlorinated Biphenyl (“PCB”) Inspections and Projects.** The PCB compliance staff member will complete twenty-six (26) PCB facility inspections and/or PCB-related projects, thirteen (13) during each fiscal year of the grant period. Targeting will be based upon tips, complaints, and the TSCA random inspection criteria and focus on facilities identified as facilities that have or that are likely to have PCBs or PCB equipment. This criteria for targeting is reviewed annually. Inspection reports and other program coordination and support will be provided to the

US EPA TSCA Program, including support for EPA multi-media inspections and other inspection efforts. PCB-related projects as work becomes necessary will be incorporated into the workload. This may include work related to state legislation passed in 1999 which mandates the Department to assess PCB facilities and pollution in sensitive areas and report the findings to the legislature in January 2001.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

For the federal SQG, LQG, TSF, LD and transporter inspections described above, DEP inspectors will utilize standardized inspection checklists to ensure that the level of detail is consistent for comprehensive inspections where full evaluations are conducted. In the case of partial evaluation inspections and complaint investigations, RCRA inspectors will limit the standardized checklist to those sections that concern the physical storage and handling of hazardous waste at a facility. Record reviews during partial evaluations and complaint investigations will typically be limited to those records which determine the nature and character of wastes observed during the inspection. For partial inspections and complaints, RCRA inspectors may increase the level of inspection (e.g. full RCRA CEI), as appropriate, if waste management practices observed at the time of inspection such as incorrect waste determinations or poor container management warrant an in-depth inspection of all hazardous waste management related activities. Instances where threats to human health and the environment are caused by improper hazardous waste management procedures will also prompt a full RCRA CEI followed by an appropriate enforcement response to the violations observed.

Facilities will also be targeted geographically in an attempt to provide maximum statewide coverage for each inspection category to maintain a RCRA compliance presence in each region. Selection criteria within the regions will include the following: (a) industry-sector or category target as specified for the grant period; (b) industry-type likely to generate hazardous waste on a routine basis; (c) subject of a complaint that has not yet been investigated; (d) facility-specific concern indicated by review of manifests, annual reports, or other information; (e) never inspected before; and/or (f) referral from another DEP program with an indication of a potential waste management problem.

In developing DEP's inspection strategies, the input from experienced field inspectors has allowed Maine's RCRA program to focus its RCRA resources in strategic areas that are unique to the State of Maine, while maintaining the level of enforcement and presence expected by EPA. Other handlers that present an imminent and substantial endangerment remain a top priority and will always take precedence over inspections targeted solely based on category or industry-sector.

J. Hazardous Waste Manifests. The RCRA Program monitors compliance of hazardous waste shipments documented by Uniform Hazardous Waste Manifests. The RCRA Program issues Letters of Warning and Notices of Violation for manifest discrepancies and misuse. The RCRA Program will maintain a hazardous waste manifest program and database for tracking compliance with transportation and disposal requirements and for use in compiling background information for compliance investigations and reviews of waste types, amounts, and disposal practices of facilities and inspection candidates. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Maintenance of the hazardous waste database and issuance of enforcement notices as necessary to maintain accurate data and ensure hazardous waste shipments are tracked from "cradle to grave" documenting proper disposal.*

K. Follow-up on Prior Commitments. The DEP will follow-up on enforcement cases initiated prior to FFY00-01. This will include tracking compliance schedules and negotiating administrative consent agreements and enforcement orders to resolve cases that are carried over from the previous fiscal year. The program will strive to improve on the timeliness of enforcement responses on cases involving consent agreements. The program will expend additional efforts on cases initiated prior to FFY00-01 in order to follow through and complete the appropriate enforcement actions. For example, continuing efforts are anticipated in follow-through work on the HoltraChem Manufacturing Corporation (“HMC”) enforcement case and the Durastone case. The HMC case is a high profile, multi-media case in which a compliance order was issued in November 1997 (for a chlorine discharge), a consent agreement was finalized in December 1997 (to address hazardous waste discharges, RCRA waste management violations, water discharge violations, and RCRA Corrective Action issues), and a court-supervised Consent Decree was executed in March 1998 (to address a February 1998 hazardous waste discharge). The compliance order, consent agreement, and Consent Decree each contain important corrective action plans, measures, and reports that will involve enforcement staff time in review and oversight. In addition, corrective action measures for the site pursuant to a Corrective Action Order will be under consideration during this grant period. The Durastone case is a civil enforcement case that has progressed in tandem with an EPA criminal investigation. The Department issued Durastone a Compliance Order in May 1999 which includes a compliance schedule and site investigation that has been tracked by Department staff. The case has involved numerous reviews of compliance to the schedule and the Department anticipates negotiating an Administrative Consent Agreement and Enforcement Order related to monetary penalties associated with violations addressed under the Order and a subsequent notice of violation. The Durastone case and the type of violations discovered has been the primary reason for initiating an industry-wide compliance assistance project for the concrete industry referenced in the Policies and Special Initiative Section below. Approximately 10% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of previously unresolved prior commitments completed through successful resolution of enforcement actions, compliance schedules or clean-ups.*

L. Multimedia Issues. As part of the compliance monitoring activities described above, the RCRA program will plan to participate in two (2) multi-media inspections, complaint investigations or enforcement actions as appropriate and necessary at facilities where cross-media issues have been identified. Approximately 2% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

M. Enforcement-related Clean-ups and Corrective Actions. The Hazardous Waste Enforcement staff work on a variety of enforcement projects that include site investigation and remedial action or corrective action to effect clean-ups of hazardous waste contamination discovered during the course of a compliance inspection or enforcement action. During FFY00-01, enforcement staff is expected to be involved with reviews and approvals of site investigations and remediation projects at 10 sites and may become involved in other corrective action sites as necessary. Approximately 10% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented or remediated.*

N. Enforcement. DEP enforcement actions will be initiated in accordance to the RCRA Enforcement Response Policy and enforcement status report criteria established in previous Memorandum of Agreement with EPA as part of the RCRA authorization process. DEP has statutory authority, 38 M.R.S.A. § 347-A, to initiate enforcement actions that include notices of violation and administrative consent agreements, as well as filing cases in Maine District Court for prosecution by staff. Our statutes also provide for civil or criminal referrals for prosecution by the Maine State Attorney General's Office.

MEASURE OF SUCCESS

➤ *Number of enforcement actions initiated.*

2. Compliance Assistance. Compliance assistance is currently conducted statewide and in coordination with the DEP's Hazardous Waste Licensing Unit, the DEP Commissioner's Office of Innovation and Assistance ("OI&A") staff, and OI&A cooperative initiatives.

A. Advisory Opinions. An important aspect of the compliance assistance program is the advisory opinions and regulatory assistance that is routinely rendered in writing and by telephone by RCRA staff to facilities seeking guidance on specific rule interpretations and applications of RCRA. While identified under the Compliance Assistance category, this type of written and verbal guidance for the public and regulated industry requires formalized enforcement policy-making that may on occasion require regulatory research and analysis, internal reviews, and/or consultations with the Attorney General's Office. Enforcement staff also assists OI&A staff by reviewing advisory opinions and regulatory assistance correspondence issued through the OI&A program. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Issuance of advisory opinions as requested.*

B. Compliance Assistance Education. RCRA staff also expects to develop and participate in at least two (2) public speaking engagements or seminars to explain the hazardous waste management standards to help facilities comply. The DEP conducts numerous presentations on hazardous waste management standards and compliance assistance. These presentations are scheduled upon request. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Completion of compliance assistance education commitment.*

C. Compliance Assistance Policies and Special Initiatives. See the Policies and Special Initiatives Section below for additional compliance assistance activities. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the initiatives completed to help ensure that compliance is gained or maintained and pollution is prevented.*

3. Significant Non-Compliance. DEP will classify and identify non-compliance for tracking within the RCRIS database based upon EPA's 1996 Enforcement Response Policy ("ERP"). Classifications will include Significant Non-Compliers ("SNCs") and Secondary Violators. DEP will identify SNCs within the RCRIS database and pursue enforcement action at a level of appropriateness and timeliness consistent with the ERP, including formal or informal actions.

MEASURE OF SUCCESS

➤ *Proper classification of on all significant non-compliers in the RCRIS database.*

- 4. Data Management.** DEP will report inspection and enforcement activities, including inspections, violations, informal and formal enforcement actions, to US EPA's RCRIS database manager for inclusion in the RCRIS Oversight and Implementer databases.

MEASURE OF SUCCESS

➤ *Complete reporting and maintenance of enforcement-related data to the RCRIS database.*

- 5. RCRA Base Program and Rule-making Activities.** In addition to the above activities, Hazardous Waste Enforcement staff are typically involved in the development and review of rule-making initiatives, such as the Universal Waste Rule, Hazardous Matter Rules, Waste Oil Rules, and Recyclable Hazardous Materials Rules currently underway to promulgate or update rules as necessary for program authorization or program development. Approximately 5 - 10% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Completion of enforcement-related rule-making activities and participation and input into hazardous waste rule-making coordinated by other RCRA program staff.*

POLICIES AND SPECIAL INITIATIVES

- 1. Small Business Compliance Incentives Policy.** The DEP Small Business Technical Assistance Program provides for pollution prevention and compliance assistance for facilities with less than one hundred (100) employees. As part of this program, violations identified through DEP technical assistance activities or through voluntary disclosure by the company will be placed on a compliance schedule without a formal penalty. Those situations that present an imminent and substantial endangerment to human health and the environment will be immediately addressed through a formal consent agreement or referral to the Maine State Attorney Generals Office for injunctive relief. The program will also reserve its right to seek enforcement action and penalties as circumstances may warrant.

MEASURE OF SUCCESS

➤ *The number of companies assisted under the Small Business Compliance Incentive Policy to help ensure that compliance is gained or maintained and pollution is prevented.*

- 2. Concrete Manufacturing.** During FFY00-01, the Hazardous Waste Enforcement Unit will coordinate and assist with the development of Best Management Practices ("BMPs") aimed at the concrete manufacturing industry to provide educational outreach and compliance assistance to this industry sector. In addition to the BMPs, the Hazardous Waste Enforcement Unit will assist the P2 staff in conducting one to two seminars to provide "classroom-type" compliance assistance developed and targeted to this sector.

MEASURE OF SUCCESS

➤ *The number assistance activities or percentage of the initiative completed to help ensure that compliance is gained or maintained and pollution is prevented.*

- 3. Composites Industry.** During FFY00-01, the Hazardous Waste Enforcement Unit will coordinate and assist with the development of Best Management Practices aimed at the composites industry to provide educational outreach and compliance assistance to this industry sector. In addition to the

BMPs, the Hazardous Waste Enforcement Unit will assist the P2 staff in conducting one to two seminars to provide “classroom-type” compliance assistance developed and targeted to this sector.

MEASURE OF SUCCESS

➤ *The number assistance activities or percentage of the initiative completed to help ensure that compliance is gained or maintained and pollution is prevented.*

4. **Mercury.** The enforcement staff will also participate in the Department's State-wide Mercury Initiative to identify sources and extent of mercury contamination and assess the possible pollution prevention and compliance assistance opportunities to reduce or eliminate mercury contamination and mercury sources from entering the environment, including administration of the Department's mercury-containing lamp policy and expansion of that policy for Voluntary Municipal Collections, and work on initial stages of a Dental Waste Initiative.

MEASURE OF SUCCESS

➤ *The number assistance activities or percentage of the initiative completed to help ensure that compliance is gained or maintained and pollution is prevented.*

The number of inspections identified in the Compliance Monitoring section (see Section 1 of the Core Program Activities above) is considered a baseline level of effort and the full extent and range of compliance assistance activities described above in this Policies and Special Initiatives section above will be contingent upon resources available to complete the baseline level of activities in the Compliance Monitoring section. The Core Program Activities and compliance monitoring will receive a higher priority for completion than the compliance assistance and special initiative activities above.

GENERAL COMMENT ON MEASURES OF SUCCESS

In accordance with the DEP's Strategic Plan, outcome measures include the number of complaints investigated, compliance inspections conducted, violations documented, enforcement actions initiated, enforcement-related corrective actions or clean-ups initiated, and technical assistance and outreach activities conducted. The primary measures of success for compliance monitoring will be the number of complaints investigated, number of inspections conducted, number of enforcement actions initiated in FFY00-01. The number of compliance evaluation inspections and monitoring activities outlined above in Section II may be modified in the event of any unanticipated changes in case workloads or staffing levels and, if necessary, to account for time and resources devoted to assisting EPA in its audit of Maine's compliance programs which is expected to continue in FFY00-01.

INTRODUCTION

The Department's oil enforcement program includes six (6) staff in the "Oil Enforcement Unit" ("OEU"): three (3) Environmental Specialist ("ES") IIs, two (2) ES IIIs and one (1) ES IV. Staff's primary duties are enforcing the state's laws for groundwater protection and underground oil storage, 38 M.R.S.A. Sections 541-570, and the Department's Rules for Underground Oil Storage ("UST") Facilities, Chapter 691.

Staff also enforce standards for the installation of underground piping for above ground oil storage facilities ("ASTs"). As of July 1, 1999, operation of an AST with underground piping that is not constructed of fiberglass, cathodically protected steel or other non-corrosive material approved by the Commissioner, is prohibited. However, unlike regulation of USTs, the Department's jurisdiction over ASTs is limited to underground piping, and registration of ASTs is not mandatory. Therefore it is only possible to enforce this requirement on a case by case basis where ASTs are registered or discovered.

The primary function of the OEU is ensuring compliance with petroleum product storage facility requirements. Approximately 90% of OEU's enforcement-related activities involve USTs. The other 10% are actions taken to resolve violations of the oil spill clean-up laws. Of these, the most common violations are failure to prevent or clean up petroleum product discharges to the environment.

OEU staff classifies violations according to severity to ensure a consistent response to similar violations. Consistent with the Department-wide Compliance Policy, less severe violation classifications are addressed with a Notice of Violation ("NOV"), in conjunction with technical assistance and additional communication as appropriate. For more severe or repeat violations, an Administrative Consent Agreement ("CA") may be issued seeking a negotiated resolution of the violations. The OEU may also prosecute cases not capable of administrative resolution in Maine District Court or refers cases to the Department of the Attorney General for prosecution in Maine Superior Court.

A secondary function of the OEU that until 1999, consumed a significant amount of resources, relates to determinations of eligibility and deductibles for applicants to the Ground Water Oil Clean-up Fund ("Fund"). The Fund provides environmental liability insurance to owners and operators of USTs by covering eligible clean-up costs of a leak or discharge of oil from an UST facility. Deductibles are based on the number of facilities owned and a facility's compliance with the applicable UST rules for leak detection, facility maintenance, removal of non-conforming tanks, etc. Since 1990, the Department has received 535 Fund applications from UST owners or operators. Until October 1, 1998, most Fund applications were initiated because of contamination discovered during removal of non-conforming tanks.

Staff must issue a Department Order that lists the basis of each deductible to a Fund applicant. Because there is a 90-day statutory deadline for Department staff to issue an Order for each application, responding to Fund applications often takes precedence over other activities in the short term.

Applicants may appeal deductible determinations to the Fund Insurance Review Board ("FIRB"). For each appeal, staff must prepare the "record" including a written statement and must appear before the FIRB. The FIRB upholds or overturns the Department's deductible determinations on a case by case basis. During the Federal fiscal year 1998 (October 1, 1997 through September 30, 1998) the OEU represented the Department at nine appeal hearings before the FIRB.

In accordance with State statute, oil discharges discovered from bare steel tanks after October 1, 1998 are not eligible for coverage. As a result, the rate of new applications dropped significantly starting in 1999. Since January 1, 1999, the Department has received twelve (12) Fund applications from UST facility owners or operators.

CORE PROGRAM ACTIVITIES

The goal of the enforcement program is to minimize or prevent leaks and spills of oil to the environment by bringing UST facility owners and operators and other persons who handle oil into compliance with applicable regulations. Communication, education and technical assistance are valuable and frequently used tools in the enforcement process. These include the following:

1. Compliance Monitoring

A. UST facility inspections. In the past few years, OEU staff has typically conducted compliance inspections at approximately 80 UST facilities that store either motor fuels or oil for marketing and distribution. These include gasoline service stations, convenience stores, motor fleet sites, farms, municipal, state and Federal facilities. In general, priorities for compliance inspections consist of UST facilities with one or more of the following criteria. Inspection sites are not limited to those with these criteria, however.

- >2 years since last inspection
- recent change of ownership
- enforcement or leak history
- violations or suspected violations
- installation problems or other questions raised through review of annual tank system inspection reports
- sensitive geologic area

Staff use a field checklist to document the inspection and issue a NOV on-site for any violations discovered. The NOV contains instructions and time frames for resolving specific violations and requires the owner or operator to submit follow-up documentation to show that violations are addressed.

Inspection locations are targeted in proportion to the total population of UST facilities in each county to ensure that all geographic regions of the state are visited. Inspections may be relocated slightly to accommodate specific high-priority facilities and time limitations.

As schedules permit, Department staff conduct inspections jointly with EPA staff from the Region I Office of Underground Storage Tanks ("OUST"). Department staff selects the facilities to be visited by State and Federal staff together. During an inspection, EPA may issue a Federal field citation for violations of any Maine UST regulations that are also violations of corresponding Federal regulations. EPA's field citation carries a monetary penalty that is determined according to a matrix and in consultation with Department staff, who concurrently issue a Notice of Violation as applicable. The EPA refers to the field citation as "expedited enforcement". Since the Department can not issue a monetary penalty in the field, the Federal citation serves as a "wake-up call" to the facility owner or operator, who may be otherwise inclined to ignore a Department NOV. The field citation program is a valuable aid to the Department by improving compliance with the UST regulations on a case by case basis. Approximately 15% of all inspections are conducted with EPA.

MEASURES OF SUCCESS

- *The number of facilities inspected.*
- *Compliance rates discovered at inspected facilities.*

B. Mass mailing of Notices of Violation. OEU staff sends out mass mailings of Notices of Violation ("NOV") to tank owners who are in violation of the statutes and regulations, which apply to USTs. These Notices provide the basis for escalated enforcement action if a tank owner fails to respond. The following NOV's are sent out annually.

- 1) "NOV for failure to perform an annual Statistical Inventory Analysis (SIA)" -- sent to all facilities that are required but failed to submit an annual SIA by the appropriate deadline. This NOV will be sent out in November.
- 2) "NOV for failure to submit a proper Site Assessment" -- sent to tank owners that have removed their UST and failed to submit a proper site assessment. This Notice will be sent out in January or February.

Other mass mailings of Notices of Violation are sent out on an "as needed" basis.

MEASURE OF SUCCESS

➤ *The number of facilities coming into compliance within 90 days after NOV is sent.*

- C. Compliance Status Reviews.** Upon request by management or other Department program staff, OEU will evaluate the compliance status of particular facilities. This function occurs in the context of multi-program enforcement efforts or to determine eligibility for state issued awards for environmental performance.

MEASURE OF SUCCESS

➤ *Number of facilities which, upon review, are not the subject of enforcement action.*

2. Compliance Assistance

- A. General.** Staff spend a significant portion of the time during most inspections on technical assistance. Staff instruct owners and operators on how to perform proper leak detection, maintain equipment and properly abandon tanks as needed. It is important for staff to obtain and maintain technical knowledge and training in all aspects of facility design, installation, leak detection and maintenance.

Staff also provide verbal and written technical assistance daily in response to phone calls from UST owners and operators, other professionals and the public. OEU staff have developed concise guides and summaries describing requirements for UST removal and abandonment-in-place, facility operation and maintenance, leak detection and other activities. Staff proactively offer technical assistance in response to questions because many compliance problems are prevented or resolved in this manner.

MEASURE OF SUCCESS

➤ *Approximate number of facilities provided technical assistance in response to inquiries.*

- B. Mass Mailings.** OEU staff have developed several informational mailings to UST owners that explain the regulations for underground oil storage facility operation and maintenance, and that include suggested checklists and record keeping logs, as applicable. Mailings made annually include:

- 1) "Cathodic Protection" letter -- sent to all owners of cathodically protected steel USTs, explains requirements for annual testing of the corrosion protection, includes technical guidance and a log-sheet
- 2) "Annual Tank System Maintenance Log" -- sent to all UST owners except for homeowners, describes requirements for annual maintenance of leak detection systems, overfill and spill protection, includes a checklist.

The Department combined these communications into a single mailing in April 1999, which improved the efficiency of the mailing and improved convenience for the UST owners.

MEASURE OF SUCCESS

➤ *Number of facilities contacted through mass mailings.*

3. **Data Maintenance.** It is not possible to review a file and conclusively determine that a facility is in compliance with all applicable requirements, because Department regulations do not require a facility owner or operator to submit all types of compliance information to the Department. However, the following records and databases enable staff to track enforcement cases, facility registrations and inspection results, and may enable limited tracking of certain aspects of the program.

A. Enforcement Cases (“UTE” log). The UTE database tracks specific enforcement cases that result from violations of any of the enforcement programs described in the Overview above. Violations are listed by code and prioritized into one of three levels. Staff are able to track specific information and the status of any case. Inspections that involve violations are also tracked on this database. This is all-inclusive of violations of the UST program and the oil statutes in general.

B. TANKS. Registration information for every UST facility is maintained in this database. The Department has implemented a series of upgrades to its so-called TANKS database over the past four years to enable the database to accommodate more specific facility information and to improve the accuracy and overall quality of the data. The OEU is planning additional upgrades to TANKS to enable us to measure compliance with facility leak detection, operation and maintenance regulations.

C. Inspection log. This database is a subset of TANKS and contains the facility name, OEU staff, date and results of each inspection. Specific violations that were identified in an inspection are also recorded. This database may be used to track the relative frequency of particular violations at facilities inspected, such as the failure to maintain electronic leak detection devices.

MEASURE OF SUCCESS

➤ *Number of facilities inspected with violations.*

POLICIES AND SPECIAL INITIATIVES

1. **Environmental Leader Program.** In 1997 OEU staff assisted a broader Department effort that developed the Maine Environmental Leader (“EL”) program for owners of retail gasoline dispensing facilities. The EL program is intended as an innovative way to promote compliance with the State's UST, hazardous waste, solid waste and air emissions requirements related to vapor recovery.

The EL program has been modified to allow qualified third party contractors to conduct on-site inspections, and to determine eligibility to receive an EL award.

MEASURES OF SUCCESS

➤ *Number of applicants and number of awards*

2. **Enforcement Strategy for Remaining Bare Steel Underground Oil Storage Tanks.** At this time approximately 110 bare steel, Federally regulated motor fuel USTs and approximately 80 commercial, industrial, farm, and municipal heating oil USTs are being operated or are improperly abandoned, in violation of the state removal deadline (October 1, 1997 for most facilities). An additional 286 residential tanks are in violation of the removal deadline. No tanks used for marketing and distribution of product remain in operation.

The Department has amended its existing enforcement strategy to focus on reducing the environmental threat from remaining tanks. The first priority will be Federally regulated motor fuel tanks that may have product in them. The Department has filed an application seeking Federal funds to use in pumping out and removing tanks. The Department will seek voluntary participation from owners wherever possible, and may seek injunctive relief as necessary. Tanks in sensitive geological areas will be priorities for product removal. Recent legislative initiatives successfully established that costs associated with proper abandonment of prohibited tanks would constitute a lien against the owner's property.

State law and the Department's Rules, Chapter 691; have required registration of all existing and new USTs since 1986. The OEU continues to enforce the rules for registration and proper abandonment (removal) of USTs as unregistered USTs are discovered.

MEASURES OF SUCCESS

- *Number of non-conforming facilities properly abandoned*
- *Number of tanks where product has been removed but abandonment process is not yet complete*

INTRODUCTION

This compliance strategy identifies initiatives that will be the focus of compliance and enforcement resources for the Maine Department of Environmental Protection (DEP) and the EPA Region I (EPA) during FFY00 and 01 under the Clean Water Act (“CWA”). This FFY00/01 compliance strategy links compliance and enforcement actions identified in the body of the PPA for the fiscal years with base program compliance and enforcement activities identified in the July 1998 EPA/DEP Memorandum of Understanding (“MOU”), as amended November 1999. Together these documents, with the PPA work plan, present the elements of a cohesive compliance assurance program. The goal of DEP's and EPA's compliance and enforcement efforts is to provide a credible deterrent and promote compliance with the CWA and state water laws via the combined efforts of EPA and DEP by using an integrated range of enforcement and compliance assurance tools.

DEP and EPA acknowledge this strategy as a dynamic plan that can be amended or modified upon agreement of the parties during FFY00/01. Although the EPA/DEP MOU developed in July 1998 is not likely to change year to year, it may be modified by agreement of the parties.

CORE PROGRAM ACTIVITIES

Unlike other program compliance plans, this document does not contain significant details on many core program activities. Since the type or quantity of those core program activities do not substantially change year-to-year, detailed descriptions of those activities are found in the EPA/DEP 1998 MOU. The following is a combination of brief descriptions of MOU items and other core activities not contained therein.

1. Compliance Monitoring [B-2]

- A. Maintain an Adequate Compliance Monitoring and Inspection Field Presence for Direct Dischargers [B-2-017].** The Memorandum of Understanding delineates the process for maintaining a field presence in inspections, and for interagency coordination. As stated therein, DEP will at a minimum inspect 30 major facilities and 30 significant minor facilities during both FFY00 & 01.

MEASURES OF SUCCESS

- *Inspecting 30 major facilities and 30 significant minor facilities in both FFY00 & 01.*
- *96% of the major facilities will be in compliance with licensed BOD/TSS limits in FFY00 & 01.*

- B. Combined Sewer Overflows (“CSO”).** The CSO initiative continues in FFY00/01 with EPA and DEP committing compliance/enforcement efforts at regulated facilities and/or collection systems that contribute to water quality impairment, shellfish bed and beach closures, and drinking water impacts. This is primarily accomplished by continuing to enforce CSO permit/license requirements and the prohibition against Dry Weather Overflows (“DWOs”); review and provide comments on Nine Minimum Controls (“NMC”) Reports and Long Term Control Plans (“LTCP”); and ensure abatement plan implementation to achieve compliance with the technically-based and water quality-based requirements of state and federal laws and EPA's National CSO Policy. In order to ensure the execution of approved LTCPs (and their associated implementation schedules), the DEP will continue to incorporate the approved schedules in wastewater discharge licenses and/or non-penalty consent agreements. When necessary, EPA will continue to incorporate approved schedules or require the development of CSO abatement plans in formal federal enforcement actions.

MEASURE OF SUCCESS

➤ *For all CSO community facilities appropriate and approved LTCP schedules will be incorporated in license renewal actions; 95% of the CSO communities will be in compliance with their approved LTCP.*

- D. Separated Sanitary Overflows (“SSO”).** DEP will assist EPA in identifying and assessing the magnitude of the universe of separated sanitary overflows. DEP, to the extent SSOs are identified in Maine, will assist EPA in implementing its Regional SSO bypass tracking system during FFY00-01.

MEASURE OF SUCCESS

➤ *Identify universe of SSOs in Maine; provide SSO bypass, if applicable, information to EPA on standardized report forms.*

E. Underground Injection Control [B-5-025]

- 1) Using the existing facility inspection priority system, DEP will focus UIC inspections in the St John/Presumpscot Watershed over the next two FFYs.
- 2) Contingent upon availability of GIS resources, DEP will identify all potential pollution sources within ½ mile radius of public water supplies, and coordinate with appropriate media program (RCRA, UST, Uncontrolled Sites, etc.).
- 3) Using the UIC data base, follow up on facilities that are out of compliance.

MEASURE OF SUCCESS

➤ *Conduct 250 UIC inspections/year in the St John/Presumpscot Watersheds in FFY00/01*

- F. Pretreatment.** DEP will assist EPA in the identification of significant industrial users discharging process wastewaters into municipal treatment plants that do not have federally approved industrial pretreatment programs. DEP will assist EPA in collection of information during an industrial or municipal pretreatment investigation. DEP will assist EPA by providing technical support or consultation during the development of a municipal or industrial pretreatment enforcement case.

DEP will conduct four (4) municipal pretreatment compliance inspections (“PCIs”) for FFY00/01: two (2) will be completed by 6/30/00 and two (2) more by 6/30/01. During a PCI, DEP will perform at least one (1) significant industrial user inspection, and prepare reports for each PCI. The DEP will assist EPA with pretreatment municipal audits or industrial PCIs.

DEP, on an as needed basis, will review/comment on municipal annual pretreatment reports, proposed technically based industrial discharge limits, legal authority, enforcement review plans, industrial discharge permits and or any “substantial modification” listed under 40 CFR § 403.18. DEP will provide pretreatment technical assistance to all POTWs on an as needed basis.

EPA will, with input from the DEP, perform industrial user inspections, along with those identified from DEP leads and copy DEP on all inspection reports; perform pretreatment enforcement (informal and formal) and coordinate with the DEP on all such actions.

MEASURE OF SUCCESS

➤ *DEP will conduct four (4) PCIs in FFY00-01 and will forward inspection reports to EPA.*

- G. State O&M Compliance Evaluations.** MEDEP O&M staff will evaluate federally-funded wastewater treatment facilities that have met all first-year project performance certification requirements, have a design capacity of less than 5 MGD, and have operation and maintenance compliance problems.

H. Spill Prevention Countermeasure and Control (“SPCC”). EPA will conduct inspections in response to any major accidental release and will initiate enforcement actions as appropriate to ensure that compliance with Section 311 of the CWA is achieved and maintained. The DEP will continue to encourage all facilities to report releases to the Federal National Response Center.

MEASURE OF SUCCESS

➤ *EPA conducts inspections and enforcement based upon release reports, region team targeting, tips, complaints, and referrals.*

G. Wetlands Coordination [B-4-023]. DEP and EPA will work to improve coordination and communications among federal and state agencies and the public on wetlands issues. Occasionally, DEP will refer a case to EPA that it believes to be in violation of federal laws. Similarly, EPA and the Corps will refer small cases in violation of state law to DEP.

MEASURE OF SUCCESS

➤ *Inspecting 100 % of Tier I and II wetlands licenses issued.*

2. Compliance Assistance

A. Education and Outreach [B-2-017]. DEP will continue to assist the Joint Environmental Training Coordinating Committee (“JETCC”) with operator certification training; publish O&M monthly newsletters; and sponsor speciality training sessions (toxicity reduction evaluations; clean sampling techniques, etc) on an as needed basis and as financial resources allow.

B. Technical Assistance. DEP will continue to provide technical assistance to wastewater treatment plant personnel during routine compliance inspections on an as needed basis.

3. Significant Non-Compliance [B-2-017]. During FFY00/01, EPA Headquarters expects to see no more than 2% of the State's major NPDES facilities on the so-called “Exceptions List” for any given quarter.

MEASURE OF SUCCESS

➤ *Not more than two(2) NPDES facilities are reported on EPA Headquarters's Exceptions List for any given quarter. DEP and EPA have 4 QNCR meetings in each FFY.*

4. Data Management. DEP will continue to maintain the timeliness and accuracy of DMR data entered into the PCS system. These efforts include regionalizing data entry, data entry screens to reduce errors, automated reports to identify delinquent reports, and manually checking the data for accuracy and completeness.

MEASURES OF SUCCESS

➤ *Complete development of compliance tracking system and consistently utilize and upgrade the system as needed.*

➤ *As a result of improved data management, it will not take more than one week for either EPA and DEP to prepare for the QNCR quarterly meeting.*

➤ *Timely and accurate compliance, inspection, an enforcement data is entered in PCS.*

POLICIES AND SPECIAL INITIATIVES

1. Delegation. DEP submitted a delegation application to EPA in November 1999. EPA, in turn, will make every effort to complete the processing and issue its decision in accordance to timelines

required in federal regulations. EPA will continue to take the lead on the pretreatment program pending approval of delegation and full phase-in of the pretreatment program in December 2000. EPA will also assist in providing training opportunities for staff, especially in the areas of pretreatment compliance inspections, audits and enforcement and stormwater compliance-enforcement including data management.

MEASURES OF SUCCESS

➤ *DEP submits delegation application in Fall 1999, and EPA issues a timely decision in accordance with federal requirements.*

2. Toxic Pollutants

A. Effluent Toxics Testing. DEP will continue its investment in maintaining improvements to the effluent toxics program that were initiated with the Toxicity Testing Program Action Plan (April 1998). These efforts in FFY00/01 will include the following compliance efforts:

- 1) Ensuring timely submittal of toxicity data that meets QA/QC requirements;
- 2) Responding to toxicity exceedence and/or reasonable potential for exceedence values promptly;
- 3) Providing technical assistance, training and guidance to facilities on reducing toxic pollutants in their effluent;
- 4) Coordinating with the Drinking Water Program on corrosion control efforts; and
- 5) Making exceedences a high priority for follow-up compliance/enforcement action (such as toxicity reduction evaluations, and reopening permits to include license limits).
- 6) Conduct rulemaking to adopt EPA's new recommended ambient water quality criteria.

MEASURE OF SUCCESS

- *100% of facilities submit toxics testing requirements in a timely manner.*
- *Revise the Toxics rule to include revised water quality criteria published by EPA.*

B. Dioxin. During FFY00 and 01 DEP will monitor compliance with and enforce the state law that requires:

- 1) non-detect for TCDF by 12/31/99; and propose enforcement response for those facilities out of compliance
- 2) that fish below bleach kraft mills have the same dioxin levels in tissue as fish above mill outfalls by 2002.
- 3) Incorporate multimedia and interagency coordination with EPA and the Air Program, to get the bleached kraft mills into compliance with the Cluster Rules.

MEASURE OF SUCCESS

- *All bleached kraft mills are at non-detect for dioxin (TCDD) and Furan (TCDF) at the bleach plant by 1/00.*

C. Mercury

- 1) Implement provisions of the 1999 mercury legislation (Chapter 500) to include rule-making to develop facility specific, interim mercury limits;
- 2) convene stakeholder group to develop and implement model mercury P2 plans

- 3) monitor compliance with interim mercury limits and implementation of facility specific P2 plans.

MEASURE OF SUCCESS

- *Promulgation of an interim mercury limit rule and development of model mercury P2 plans.*
- *Instituting multi-program, interagency coordination to bring chlor-alkali facilities into compliance with State and Federal rules and regulations*

3. Geographic Targeting

- A. **St. John and Presumpscot River Watersheds.** Consistent with the 5-year watershed approach and where practical and available, EPA and DEP will focus licensing, water quality evaluation, compliance, pretreatment inspections, and enforcement efforts in areas exhibiting the greatest risk to the ecosystem and public health in the St. John and Presumpscot River Basins.

MEASURES OF SUCCESS

- *Complete inspections, any water quality evaluations, enforcement, and licensing actions as appropriate.*

- B. **Seven Salmon Rivers.** DEP, and depending on resources, EPA, will focus compliance inspections on facilities that discharge to the Narraguagus, Pleasant, Machias, East Machias, Sheepscot, Ducktrap, and Denys Rivers.

MEASURES OF SUCCESS

- *Complete compliance inspections of facilities in these watersheds.*
- *Provide EPA with a list of planned and completed inspections of facilities discharging into these rivers*

- C. **Shellfish Restoration.** DEP will continue to work with the Maine Department of Marine Resources ("DMR") and the Regional Planning Commissions to develop a coordinated approach for focusing resources on priority areas of concern, including the use of Overboard Discharge Grants and Small Community Grants, enforcement, education/outreach, etc. to restore identified redeemable shellfish areas.

MEASURES OF SUCCESS

- *Conduct annual review meetings with DMR.*
- *Complete sanitary survey work and enforcement follow-up as needed in the towns of Hancock, Franklin, Sullivan, Vinalhaven and Cushing.*

- D. **Corrinna Sewer District.** DEP will work with the District to remove the existing treatment plant outfall from the Sebasticook River, replacing it with either a land application system or a discharge downstream of Sebasticook Lake.

MEASURE OF SUCCESS

- *Tracking and ensuring implementation of the approved schedule included in the District's State waste discharge license.*

4. Sector Initiatives

- A. **Multi-program Enforcement Resolutions.** The Bureau of Land and Water Quality will participate in a Department-wide initiative to establish a multi-media process to develop annual "clean up" consent agreements for major facilities. The Department will define the universe of appropriate major facilities and will modify its internal systems to expedite and implement this approach.

- B. EPA's Industrial Sector Team.** The metal services sector will be a focus for EPA during FY00. DEP will refer appropriate facilities to EPA for follow-up compliance and enforcement action where needed.

MEASURE OF SUCCESS

➤ *DEP will assist EPA on any compliance and enforcement cases in this sector during FFY00.*

- C. Industrial Sector Storm Water Discharges in the St. John and Presumpscot Watersheds.** EPA will target industrial sector(s) with the most serious toxic discharge(s) for a blend of compliance assistance and enforcement. DEP will provide the EPA with leads/tips for assistance/enforcement within the selected industrial sector(s) in the St. John and Presumpscot River Watersheds.

MEASURES OF SUCCESS

➤ *DEP to provide pertinent information to EPA upon request.*

- D. Concentrated Animal Feeding Operations (“CAFOs”)**

1. DEP will implement pertinent requirements on CAFOs and Animal Feeding Operations (“AFOs”) as identified in the *Maine Nonpoint Source Control Program Upgrade & 15 Year Strategy* as approved by EPA on 10/13/99.
2. DEP will enter into a MOU with the Department of Agriculture, Food and Rural Resources (“DAFRR”) to document a coordinated review/licensing/compliance program for CAFOs/AFOs. Pursuant to the MOU, DEP and DAFRR will identify the universe of CAFOs (including any state/federal facilities) and will ensure that all the CAFOs are inspected by FFY01

MEASURES OF SUCCESS

➤ *Enter into MOU with DAFRR*

➤ *Identify universe of CAFOs and ensure 100% inspection by FFY01*

- E. Biosolids disposal or beneficial reuse.** The program will coordinate with the DEP Sludge and Residuals Unit to conduct licensing, inspection and enforcement activities that ensure landspreading activities do not adversely impact groundwater and surfacewater resources. EPA will be consulted regarding technical issues related to pathogens and metals.

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE MAINE DEP DIVISION OF WATER RESOURCE REGULATION AND
US EPA REGION I ON THE CLEAN WATER ACT
COMPLIANCE AND ENFORCEMENT PROCESS AND COMMUNICATIONS**

(As amended November 1999)

I. PURPOSE

The purpose of this Memorandum of Understanding is to enhance communication and coordination between USEPA and the Maine DEP on compliance and enforcement of the Clean Water Act and state waste discharge laws.

II. GOALS AND OBJECTIVES

- Both within the base program and state/federal initiatives, promote a partnership between the two agencies in compliance and enforcement matters,
- For base program Significant Non-compliance (“SNC”), implement established EPA compliance/enforcement practices and the DEP compliance/enforcement policy and case management protocol developed in FY 1998,
- Ensure timely communication and constructive dialogue on key compliance and enforcement cases, compliance and enforcement priorities and program direction.

III. ELEMENTS OF AGREEMENT

- A. Non-compliance Review (“NCR”) Meetings: DEP will convene monthly state non-compliance review meetings (NCR meetings) and will submit NCR minutes to EPA within 7 days. EPA will attempt to participate in state NCR meetings on an ad hoc basis as resources permit. EPA will provide feedback on NCR minutes with a phone call within 7 days of receipt of the minutes.
- B. Compliance Inspections. Inspections of major and minor NPDES industrial and municipal treatment facilities will be primarily targeted to those facilities with compliance issues as identified in monthly NCR and quarterly QNCR meetings. DEP will, at a minimum, inspect at least 30 major municipal and industrial facilities and 30 significant minor municipal and industrial facilities at the discretion of the DEP during the fiscal year. DEP will, at a minimum, inspect all majors over a three-year period. The major NPDES facility inspections can be of the Comprehensive EPA 3560 type, or the State Intensive 3560 Equivalent type [these will focus on specific aspects of operation and maintenance or compliance issues] depending on the problem and status of the particular NPDES facility. The significant minor facility inspections can be of the State Routine type, EPA reconnaissance type, or specific problem-solving type. The monthly NCR process will ensure that environmentally significant industrial and municipal facilities are inspected. DEP agrees to enter all state inspections done at major and minor NPDES facilities into PCS by no later than September 30th for a given fiscal year, and to forward copies of all inspection reports to EPA.

EPA will do CWA inspections as targeted by Regional Teams, watersheds, formal federal enforcement actions, and as otherwise coordinated with the DEP under the Compliance Strategy for a given fiscal year. EPA agrees to enter all federal inspections done at major and minor

NPDES facilities into PCS by no later than September 30th for a given fiscal year and to forward copies of all inspection reports to DEP.

- C. Significant Non-compliance. According to national enforcement policy EPA and MEDEP are required to identify and address significant non-compliers to minimize or eliminate risk to human health and the environment. To this end, MEDEP commits to (1) undertake targeting strategies and inspection protocols designed to identify significant noncompliance, (2) identify detected significant non-compliers in national enforcement databases, (3) communicate and coordinate with each other on the enforcement action undertaken in response to the significant noncompliance, and (4) address these identified facilities with enforcement responses sufficient to ensure compliance and recovery of penalties. Monetary penalties recovered should be in accordance with EPA and MEDEP penalty policies, but never less than the economic benefit of noncompliance and a gravity-based penalty sufficient to deter further noncompliance.

All significant non-compliance ("SNC") in the NPDES program will be responded to by either MEDEP or EPA. Once a permittee is reported in SNC, the enforcement response can include, as appropriate, meeting with the permittee, conducting inspections, issuing Notice of Violation letters, warning letters, providing technical assistance, modifying permits and taking formal enforcement actions (e.g. administrative orders, administrative civil penalties and/or judicial actions). The goal of both agencies is to return all permittees in SNC to compliance within one reporting quarter. Under the current EPA policy, if the permittee remains in SNC for two quarters it is subsequently listed on EPA's Exceptions List and a formal enforcement action (taken by either EPA or MEDEP) must be taken within 60 days of the close of the second consecutive quarter the permittee is in SNC. Each agency agrees to forward a copy of any formal enforcement action, within 15 days of filing or issuance, to the other agency.

- D. Compliance and Enforcement Coordination. Both DEP and EPA seek to avoid compliance problems whenever possible through technical assistance and other preventive measures. Each will continually coordinate with the other regarding compliance issues, making every effort to enlist the other's assistance in addressing problems before formal enforcement action becomes necessary. To this end, each agency will inform the other of specific concerns, trends or developing program issues through routine and timely communications including meeting notes, copies of letters and telephone discussions. * In the event one agency believes formal enforcement action is necessary, it will inform the other promptly in order to provide opportunities for technical input and consideration of alternative resolutions. The preparation of any draft enforcement action will be coordinated between EPA and DEP and will normally be made available to the other agency for review and comment prior to issuance, but in any event at least 7 work days prior to issuance. The reviewing agency will respond within 7 work days. EPA and DEP will develop (during state NCR meetings and EPA/DEP Quarterly Review Meetings/conference calls) and adhere to committed time frames for each escalation step so that appropriate and timely enforcement actions follow the discovery of violations.
- E. Quarterly Noncompliance Meetings. DEP and EPA will make every effort to meet once per quarter, at a minimum, to discuss compliance and enforcement cases. [In the event that travel considerations prevent a meeting, DEP and EPA will conduct a quarterly compliance and enforcement conference call.] Prior to each quarterly meeting/conference call, the EPA and DEP agree to review the completeness of the PCS database for the particular quarter under review

* Pending delegation of the NPDES program to the state, MEDEP agrees to forward copies of DMR cover letters from major NPDES facilities (and, on a case-by-case basis, significant minor facilities) that specifically identify compliance problems.

and all instances of SNC for all major NPDES permittees and any known pretreatment violations for that particular quarter. These quarterly discussions will result in determinations of timely and appropriate (EPA and DEP) compliance and enforcement actions against SNC violating facilities. Each quarterly meeting will also result in an EPA Quarterly Letter or Memo identifying major NPDES facilities in SNC and/or on the Exceptions List, agreed upon actions by EPA and DEP, and updates on active enforcement actions. DEP will follow-up with a phone call to EPA within 7 days of receipt of the letter/memo to confirm the findings, report any inconsistencies or changes.

- F. Current information. EPA and DEP will keep each other informed of pending actions on policies, regulations, strategies, and other documents relating to wastewater compliance and enforcement, and shall assist each other in obtaining the most current version of pertinent documents.
- G. Data Management System: DEP will pre-print and mail monthly NPDES Discharge Monitoring Report ("DMR") forms for (at minimum) all major facilities. The DEP will then quality assure and keypunch the returned, completed DMR forms (and any subsequent corrections) into EPA's national computerized system ("PCS") database for, at a minimum, all major facilities. As provided in the example below, all data entry, quality assurance and data correction shall be completed as soon as possible, but no later than the 15th of the month following the due date of the DMR, except that in the last month of the quarter DEP will make every effort to enter, QA and correct the data by the end of the month that the DMR is due.

Example:

FFY Qtr. #	Calendar Month:	DMR due date:	Correction due date:	Qtly. <u>Meeting:</u>	SNC/EL Action by
1	10	11/15	12/15		
	11	12/15	1/15		
	12	1/15	1/31*	~2/10	2/28

(*) accelerated schedule to allow for preparation for EPA/DEP quarterly meeting.

To allow EPA to coordinate effluent data quality control measures, DEP will provide EPA with copies of DMRs for all major facilities no later than the 15th of the month following the due date of the DMR. In addition, for at least all major facilities, DEP shall be responsible for entering and verifying all state (state lead or joint/state lead), NPDES inspections and DEP formal enforcement actions (with implementation schedules and any subsequent enforcement action amendments) into PCS. EPA will provide technical assistance in developing and generating information retrievals from PCS. EPA shall enter and verify federally issued formal enforcement actions and related compliance schedule data, EPA inspections data, outfall data, NPDES limit data and permit tracking data into PCS. EPA will generate the Quarterly Noncompliance Report ("QNCR") for all major permittees using PCS.

For all enforcement actions taken by either EPA or DEP, the respective agency will ensure that information regarding compliance status will be entered into PCS within 30 days of any compliance schedule date.

DEP will continue to maintain and update an in-house electronic database for reporting/retrieving compliance monitoring data. The state will continue to explore the possibilities of enabling this state database to be downloaded into PCS.

- H. Separate enforcement action by EPA. It is understood that EPA may initiate separate enforcement actions, subject to prior notification to DEP, if DEP fails to initiate timely formal enforcement actions or take formal action by the date negotiated during quarterly meetings or other meeting/telephone conversations.
- I. Use of Innovative Enforcement tools: Where appropriate, innovative enforcement tools such as Supplemental Environmental Projects (SEPs) and small business compliance initiatives may be implemented to ensure the timely resolution of compliance issues (see 38 M.R.S.A. § 349(2-A), MeDEP SEP Policy, 8/1/96, and MeDEP Small Business Compliance Incentives Policy, 1/1/96.)
- J. Multi-media/Multi-agency Compliance Inspections and Enforcement Capacity: DEP coordinates multi-media inspections and enforcement actions with EPA through the Office of the Commissioner to ensure effective multimedia planning and efficiency. In addition, DEP coordinates with other state agencies, such as LURC, the Department of Human Services, the Department of Agriculture, the Army Corps of Engineers, and the Maine Forest Service to coordinate compliance and enforcement activities.

(As amended November 1999)